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BROOKS <sup>AND</sup> BAXTER WAR

A HISTORY

OF THE

RECONSTRUCTION PERIOD IN ARKANSAS

By JOHN M. HARRELL.

THE ALMIGHTY DOLLAR

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—❧DEDICATED❧—  
TO THE  
UNITED CONFEDERATE VETERANS  
BY THE AUTHOR,  
JOHN M. HARRELL,  
BRIG.-GEN. COMDG. S. DIV. ARKANSAS U. C. V.

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## PREFACE.

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In less than a decade after the surrender of Lee the Southern States, one after another, threw off the governments erected under the military bills of Congress. They re-established governments in accordance with ancient usages, inherited from the colonies, and the rules of home government reserved to them in the Constitution of the United States. The re-awakening was irresistible and phenomenal. By these sketches I have attempted to trace the ætiology of this material and moral palingenesis in Arkansas.

I have spent my youth in Arkansas, and I watched with deepest interest the successive stages of its disenthralment. In the early days of its settlement chance assemblages of adventurers from the older States, at the river towns on the Mississippi, committed lawless deeds on its border that gave it a reputation which did not apply to the interior. The caricaturist of the Eastern press selected it as the scene of droll characters and incidents—the creatures of his imagination—and found a never-failing source of merriment in the tales of the “Arkansas Traveler.” Young off-shoots from a civilization which had grown too exacting, perhaps, coming to the State and yielding a credulous faith in the reality of these burlesques repeated them, and fancied that they thus enhanced their own accomplishments, not fully appreciated at home. It got to be called the “Home of the bowie-knife and refuge of the cut-throat.” The “gentle” “Autocrat of the Breakfast Table” approves the bowie-knife—pronounces it the “Roman *gladius*, modified to meet the daily wants of civil society.”

Others, who never visited the State, or the South even, applied their caricatures to the Southern States generally. The gifted Bret Harte, accomplished by the amenities of “Roaring Camp,” and learned in the magic of “Ah Sin,” has lately attempted to borrow them for use in distant Scotland. His etchings of M’liss and Yuba Bill are far below the art of Cable’s “Les Demoiselles’ Plantation” or Miss Murfree’s “Drifting Down Lost Creek.” His lampoon of “Elsie Kirby,” whose “Maw” has invested twenty thousand dollars in a “syndicate” for obtaining by her daughter’s marriage a share in the title and estate of a Scottish “laird,” contains none of Nature’s touches, and is a new role for a Southern girl. On her first meeting with the American Consul (a former claim-jumper from Scott’s Camp, on North Fork), the author makes this feminine type of American thrift and modesty say :

“It was mighty good of you to come and see me, for the fact is, I’m a Southern girl, and did not admire going to your consulate—not one bit. I never was ‘reconstructed,’ either. I don’t hanker after your gov’mnt. I reckon I ain’t been under the flag since the wah. I’ll just run up and see if Maw’s coming down. She’d admire to see you. You would n’t think I was half engaged to Malcolm, would you?”

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Mr. Rudyard Kipling says he heard some conversation like this between real, living belles in San Francisco. He talked also with a girl who was not Southern, on the heights of the Yellowstone upon their first chance meeting—a full cousin to “Daisy Miller”—whose mothers were *sisters*. He paints his English portrait of these American girls as faithfully as Harte “bites in” his Scottish fancy. But Harte is confused with recollections of Nob Hill and studies of Poker Flat.

W. D. Howells, essaying to quit the commonplace, attempts the blood-curdling romance of the loves of a naval officer and lovely mulatto girl. The learned lover tells her that Southerners hate “her race” because they “had injured it.” He never heard of the “horrors of the middle passage,” when her ancestors were brought by ships not Southern, naked cannibals, saved from being eaten, as captives, to our coasts, where they were disciplined to a degree of “culture” which Howells and some Bostonians regard superior to their own.

Let us leave it to foreigners and expatriated Americans to hold Americans up to ridicule abroad, while we recognize their worth at home—in the cabinet, on the bench and in the pulpit. The “necessities of war” invited foreigners to aid in putting down the South. There is now no demand for a similar alliance to write us down. Or, is there?

Several years before the war I traveled nearly all over the State on horseback, alone and without a weapon. Its peace, plenty and hospitality were idyllic. I found everywhere men of culture, among them lawyers, soldiers, poets, orators, whose renown was not confined to the State, nor that of some to the United States;\* gentle, lovely women, whose lives of purity and refinement were as impressive as they were genuine, *inherent*. The cut-throats were imaginary until 1868.

The papers, addresses, editorials, proclamations, military orders of “old citizens,” republished in these pages, bear witness to the enterprise, ability and culture of the thinkers and workers who took part in the deliverance of the State from the grasp of the spoilers. Brooks men and Baxter men were animated by the same purpose. They afford abundant proof that our great State, with its fertile river valleys and grandly picturesque mountains and prairies, is not the habitation of ignorance, rusticity and crime.

To vindicate the honor of our oppressed people who, after years of patience, felt that longer endurance was reproachful, and rose up in their strength, as grand and irresistible as they were liberty-loving and patriotic, these pages were written.

The opportunity of publishing them came about this way: Capt. Cutter, editor and proprietor of his handsomely executed *Illustrated Journal*, asked me to contribute to its pages. Mr. E. S. Brooks, editor D. Lathrop Publishing Company, at the suggestion of Mr. Geo. Russ. Brown of the *Gazette*, had applied to me to write the “Story of Arkansas.” I preferred to write these sketches of the “Period of Reconstruction.”

I began it from materials which had been gathered for me by a friend to whom I have given the name of "Darley Raynor." I finished it, after exhausting many sources of information. The authority for the facts contained in the work *accompanies* them, connected, I think, by a sufficiently perceptible thread. They are reprinted from authentic reports of the press and *sworn* testimony of the actors.

I would not have these papers to be considered a book of *politics*. They are but the published records of dark experiences, which point an impressive moral for the whole American people. Mistaken solicitude for the blacks (certainly originating in a kind and noble impulse) prompted the measures that excited unnecessary antagonisms between them and the whites, with whom they were indissolubly joined by interest and contact; that violated democratic usage, in erecting vice-regal directories for their *protection* (?) instead of State governments "republican in form."

Many acts suggested by the kindest motives are hurtful to the cause of humanity. Under the circumstances by which he may be surrounded, the race of man must improve each exigency for his advantage, whether it demands peace or war. The contest is unending. The preservation of the "fit," which is to be desired, is only another conception of destruction or absorption of the "unfit," hardly less to be desired.

The Malthusian metaphor serves a feast for a limited number of guests at Nature's table. The question is, who is to be favored with a seat? No principle purely of morals will govern the situation. The office of morality in the struggle, is to humanize it, and alleviate its bitterness to those who are rejected.

The preceding paragraph is the general sense of an article of Leslie Stephen, in the London *Contemporary*, which arrives at the following conclusion: "We give inferior races a chance of taking whatever place they are 'fit' for, and try to *supplant* them with the least possible severity, if they are 'unfit' for any place." He had the Maoris, Bushmen, Africans, on their own soil, in view, while writing; perhaps never heard of our "Fifteenth Amendment."

If Mr. Lincoln's design, and the American policy of conciliation, mutual trust and confidence between officers and people had been observed, the State might have been made *republican*. The military governments contained the elements of their own destruction. This is the lesson taught in these faithful chronicles.

J. M. H.

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\*Capt. Bonneville, Irving's Scenes in the Far West; Albert Pike, Hymns to the Gods, Blackwood's Edinburgh Magazine; A. H. Sevier, Minister to Mexico; Solon Borland, Minister to Nicaragua; A. H. Garland, United States Attorney General; Edward Fitzgerald, Delegate to Ecumenical Council, Rome; H. C. Lay, Member Pan-Anglican Conference, Lambeth.

## INTRODUCTION.

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By way of palliating criticism of what may be considered a spirit of resentment running through these sketches of character and chronicles of actual occurrences, a true description of which must seem harsh, I will present, as an introduction, from the article of statistical illustration recently furnished the Boston *Arena* by Joshua W. Caldwell, a few short passages. Nothing could be less polemical than the spirit in which this writer treats of the relations of those who, under seemingly conflicting but really identical impulses, united to establish the American Republic.

Mr. Caldwell commences his article, to show that "The South is American," with the assertion that a great deal has been said and written by Southern men of the need for a history of the South. The admirers of the late Henry Grady were fond of predicting, before his death, that to his brilliant genius the South would become indebted for a history which would fully "vindicate" her. It is respectfully submitted that the South does not need vindication, and that in any event she must rely entirely upon the facts. We need not expect, and do not desire, any vindication except the truth.

Now is the time to gather the material, to preserve it, for the hand of the historian, who shall extract from it the truth; but not until generations shall have passed, and feeling and prejudice shall have ceased to obscure and distort truth and judgment. We may rely upon it: the truth will finally be told, and the world will know it.

As Virginia had been the richest and most influential of the Southern colonies, she became the controlling Southern State. There was no time prior to 1861 when she was not the foremost and most influential Southern State. The younger Southern States are very largely of Virginia origin. It is correct, both geographically and politically speaking, to call the four Southern colonies the "Virginia group." Socially, politically and religiously, the Southern colonies were of the same type; and it was mainly, almost exclusively, Virginia and Virginians that shaped their institutions and determined the character and quality of their civilization. This civilization was essentially Anglo-Saxon.

But while the American colonists, more especially the Southern ones, were men of the Anglo-Saxon race, and had the Anglo-Saxon civilization, they were at the time of the Revolution not Englishmen, but Americans. No writer has more satisfactorily presented this truth than Theodore Roosevelt. It is true that Georgia had not long been settled, but in most of the other colonies the white race had lived for more than two centuries. In Virginia they had dwelt for more than two hundred and fifty years. The Anglo-Saxon supremacy in the South has never been overcome. So far as other white races are concerned, it has never been threatened. The white population has always been American and homogeneous.

The third decade of this century witnessed the setting in of that mighty tide of immigration

which has "known no retiring ebb." The South has had almost no immigration. In some parts of the West we know that foreigners possess the land, and do with it as they please. But statistics are more convincing than general statements. According to the census of 1890, there were for every 100,000 native born Americans 17,330 foreign born. In New York for every 100,000 natives there are 35,000 foreign born; in Illinois, 28,200; in Michigan, 35,000; in Wisconsin, 44,000; in Minnesota, 56,000; in Montana, 48,000; in North Dakota, 80,000—for every 100,000 natives.

Massachusetts alone has a foreign population of 657,000; New Jersey, 329,000, or nearly as many as the whole South; New York, 1,600,000, four times as many as the South; Pennsylvania, 845,000; Ohio, 459,000; Illinois, 842,000; Michigan and Wisconsin, each over 500,000; Minnesota, nearly the same; and California, 366,000.

But these figures do not indicate the real importance and influence of the foreign-born population. It is the percentage of those of *voting age*, which in New York is 38.73; Illinois, 36.39; Michigan, 40.22; Wisconsin, 52.93; Minnesota, 58.55; North Dakota, 64.89; Nevada, 51.41; California, 50.22.

These are foreign countries, and it is a positive relief to turn to the South and feel that there are still some Americans left. The percentage of foreign-born *voters* in some of the Southern States is as follows: Tennessee, 3 per cent.; Kentucky, 7; Alabama, 2½; Mississippi, 2; Louisiana, 10; Texas, 14; Arkansas, 3; Virginia, 3; West Virginia, 5; North Carolina, 0.61; South Carolina, 2; Georgia, 2; Florida, 11.

The white people of the South are not only American—they are in the main the descendants of a race which from the days of Tacitus has been known in the world's history as the exemplar and champion of personal purity and political liberty. For them no life but one of freedom is possible.

The strongest, most concentrated force of Americanism is in the South. Americanism is the highest form of Anglo-Saxon civilization. There is no part of the globe, except the *Kingdom* of England, which is so thoroughly Anglo-Saxon as the South.

But it will be said, nevertheless, a war was necessary to keep her in the Union. To this matter I am compelled to refer very briefly. The excellence of the American Union is in the *principles* on which it is established—that is to say, in the *Constitution*. Surely, no man will say that it is more important to preserve the *physical* integrity of the Union than the *principles* of the Constitution.

We claim for the South, in the war between the States, absolute good faith. Whether she was right or wrong, the impartial judgment of the future will fully determine. The South, I affirm, has been from the first, absolutely faithful to the principles of the Constitution, as she in good faith construed it. It is correctly said that the Constitution was adopted and promulgated

by a convention in which Southern influences predominated. The heading of one of Bancroft's chapters is "Virginia Statesmen Lead Towards a Better Union."

Virginia did lead the movement for the establishment of the Constitution. The reader who wishes to know the extent of the influence of George Washington, of Virginia, in this movement is referred to the pages of John Fiske, of New England. Rutledge and Pinkney, of South Carolina, were the most important contributors to the form, as well as to the substance, of the Constitution. The Bill of Rights is mainly the work of Thomas Jefferson, of Virginia.

During the first century of our national life Southern statesmen held the Presidency and shaped the policy of the Government. They acquired Florida and Louisiana, including the Mississippi River and the vast area of the Northwest, and extended the public domain to the Rio Grande and Pacific Ocean.

The Constitution was first construed by John Marshall, of Virginia. When the Southern Confederacy was formed, it adopted as its organic law the old Constitution, unchanged in any essential respect. There is no fact, nor logic, which can prove that the South ever deviated from her fealty to the Constitution, or ever shed a drop of blood except in defense of its principles, as it was ever construed by the South.

The war construed the Constitution differently. The South has, in good faith, unreservedly accepted every legitimate result of the war. No man, who is honest and who is adequately informed, will say that her people are not absolutely loyal to the Union and the Constitution. I go further and affirm, that in the troubles which the future is sure to bring, the principles and the institutions of American liberty will find their most loyal and steadfast support in the twelve millions of Southern Anglo-Saxon Americans.

The election of Mr. Lincoln was not the cause, but only the signal, for organization by the Southern States of an independent confederacy. He could not have "coerced" the nineteen Northern States, which had passed the "personal liberty bills," into observance of the Constitution. They appealed to "higher law." They had furnished, under Presidents not in sympathy with them, John Brown, Owen Lovejoy and the slayers in the Batchelder riot in Boston. Their emissaries would have disturbed the repose of the South in every quarter—Federal soldiers would have garrisoned Southern towns—an outcry would have arisen to make slavery and the name "Southerner" execrated, for all time, in every land.

It was according to the plan of that "higher law" that Southerners anticipated the exigency, and met it in manly line of battle. Thus they unified the South, and demonstrated a courage that won universal sympathy. Thus they saved for their invaders, as well as for themselves, the principles of constitutional liberty—which *was* "the cause"—that is *not lost*.

THE AUTHOR.



# THE BROOKS AND BAXTER WAR:

## A History of the Reconstruction Period of Arkansas.

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The war, you know's all done and ended,  
And aint changed no p'int's o' the compass;  
And whites and blacks—ther helth's jes splendid  
As 'fore the rumpus.

—James Whitcomb Riley, *paraphrased*.

*Note by the Editor.*—The manuscript of the following circumstantial narrative of the beginning and course of the long struggle that culminated in the violent collision of political factions, in the State of Arkansas, called "The Brooks and Baxter War," was found with the effects of Mr. Darley Raynor—a young man who had been reared in Little Rock and was sent East to be educated, where he showed some promise, but was compelled to abandon his studies by the breaking out of the civil war and return home. There he remained until his death, which was a tragic one, soon after the Brooks and Baxter conflict. He had accepted the duty of occupying and taking charge of a vacant dwelling in a picturesque retreat near Little Rock, and was found lifeless in his room on the ground floor, at the feet of his chair, after he had been dead several days.

The crashed panes of glass, the hole of a rifle-ball in his skull, and the position of his remains, were conclusive evidences of his sudden and violent death. Poor Darley! He was not known to have an enemy in the world; he was proverbial for his amiability and his reticence; he was happiest when alone with his books and papers, for he was forever engaged in writing mysterious manuscripts,

which he kept carefully locked from all beholders; he was never known to visit any friends but his family in the city. His murder was a most inexplicable deed, until investigation led to the conclusion that it was brought about by his kind acts and sympathies alone. There lived near him a man who had a modest, patient, and beautiful wife. The husband was impracticable, and failed to properly provide the necessaries of life; while the unfortunate wife endeavored to eke out a famishing livelihood by all kinds of labor. Young Raynor sometimes visited the wretched hut where she toiled, but was never known to enter it. Upon some of these visits he left presents of articles of food or apparel, which the wife did not think to conceal, but on the contrary spoke of them freely, and referred to the matter in such complimentary terms as to arouse the demon of jealousy in the heart of the husband. Knowledge of these circumstances led to the husband's arrest; but on investigation he was pronounced unmistakably insane.

The manuscripts found in young Raynor's trunk fell to me. Among them were these memoranda of the Brooks and Baxter War. They consisted of several packages fastened together and labeled, as are the transcripts of court papers, and were numbered "Paper First—B. & B. War;" "Paper Second," etc. Each paper I found to be a stage of distinct occurrences of the history. It was evidently the literary work of a student, preserved for

his own inspection and remembrance. It gives many facts connected with an important era in the history of the State, and I feel it my duty to give them to the public for what they are worth. I think they have decided value.

#### FIRST PAPER.

I felt very sorry for the people whom I had known in their affluence in my State of Arkansas, but who had taken sides with the Confederacy, and gone into the army or exile, and came home poor and dispirited after 'the surrender' in 1865. It was but the State of my adoption, it is true, as I was born in Newburyport, Massachusetts; but I had been reared from infancy in little Rock, the capital city of Arkansas, and felt for it, alone, that mysterious tie which seems to bind all men to the haunts and associations of infancy and youth.

The tumble-down vehicles and jaded teams, the old-fashioned articles of dress of the citizens, and bearded, scarred or emaciated figures of the soldiers, as they came into the city, presented an odd mixture of the ludicrous and the pitiable. However, they were greeted with forbearance by the soldiers and officers of the victorious army in occupation, and kindness and respect by the citizens who had remained behind. The civil officials, however, by indictments against the most prominent, which were dismissed with costs, and claims against their property under void tax sales, caused them some annoyance; but for this, it

seems, they were prepared, and bore it with fortitude, and a spirit of resignation which was doubtless sustained by the pleasure of being once more at 'home,' and realizing that the war was at an end.

I had not taken part in the war. I was too young when it began, and ere it ended, I was convinced of its hopelessness to the Confederates, with whom I sympathized with all my heart. I was persuaded of the injustice and blight of slavery, but I could not imagine any place in our government for the black people when they should be made free, since I believed them incapable of exercising the duties and rights of freemen. I derived my impression on the subject probably from my mother, and her husband, my step-father, who were New Englanders, but who after a long residence in Little Rock in contact with them frequently spoke of the negroes as fit only for Africa,—would not have one about their house. A Yankee housewife could not 'endure' a colored servant. But now the war had freed them, and they were numerically stronger than the whites in Pulaski County. Months went on without any marked evidences of the great change that had been wrought. The negro servants were tractable as ever, and without words or conduct, except in particular instances indicating undue exaltation,

went their ways in much the same manner as when they were slaves. In fact they, as well as the whites, seemed dazed, in view of the altered situation, so unexpected to every one. There were soldiers about in great numbers, it is true, and quite an army still remained at Little Rock, the presence of which may have prevented friction in the transformation that had taken place within a few short months.

So profound seemed the peacefulness of this feeling, and so bright was deemed the promise of the little city as a future railroad center, and mart of commerce, though then containing hardly three thousand inhabitants, that many of the officers and soldiers of the Union Army stationed there decided to become residents and take their chances with the future of the city and the State. Col. H. C. Caldwell, a lawyer of ability from Iowa, was appointed by President Lincoln U. S. Judge of the Eastern District of Arkansas, *vice* Daniel Ringo, disqualified by sympathy and participation with the Southern revolt. Robert A. Howard, who had served on the staff of Genl. Steele and been U. S. Attorney of Nebraska; Capt. L. B. Nash, and Maj. White lately provost marshals of the post; Maj. Willshire, a nephew of Gen. John A. Logan; Capt. J. G. Bottsford, George H. Meade, Col. W. S. Oliver and M. W. Benjamin, who

were all prominent actors subsequently in the events of the Brooks and Baxter War, took up their residence and entered into business there. I might mention O. S. Dillon, the fat man and humorist, and A. G. Cunningham, the fireman, also.

The old citizens had sustained great financial losses, and almost every family had been bereaved by the casualties of war, yet they acted as if realizing that these were the legitimate or necessary consequences of the great wager that had been fought, and that acquiescence in its loss was inevitable and honorable. The military rule under that chivalrous and brave officer, Gen. Steele, had greatly propitiated the feelings of the conquered people, and the courteous bearing of his officers, and the orderly conduct of the soldiers under him had encouraged a cordiality in the association which was not seen at many places in the South. The examples of magnanimity set by the commanding officers in accepting the surrender of the Southern armies, served to allay mutual resentments, and encouraged hopes of a permanent peace.

True, for several months after the surrender, some of the best dwellings continued to be occupied as residences or 'quarters' by the military, who had found them vacated by their owners upon the 'occupation' of the city. The

residence of Gen. William E. Ashley, with servants, houses and stables, was chosen from the first as 'headquarters' of the general commanding, and continued to be so occupied for many months after peace was established. There was never a more generous or amiable gentleman than William E. Ashley. His father was an able lawyer and represented the State a long time as U. S. Senator. He left his sons a large estate which he never dreamed would be in a great measure destroyed by his own countrymen. They, the sons, and their families, which included Mrs. Ashley and Miss Fannie, the gentlest and loveliest of ladies, found a contented home, meanwhile, elsewhere. The fine residence of Capt. Morton, with its service, linen, and wares, was similarly 'occupied,' and the family found a home with relatives. It was singular that the heads of both these families were originally Bostonians.

Citizens were glad to find repose after years of ravage and alarm; combatants on both sides quite willing to bid 'farewell to the neighing steed and shrill trump' of war.

Entertainments were given to the officers of both armies by citizens who had suffered least misfortune from this conflict. The post band serenaded Gen. N. Bedford Forest, who happened in the city on business, and the Confederate

military band of General Price's command, the members of which had made their way to the city, serenaded Generals Sherman and Reynolds—the latter commanding the department—with 'Marching through Georgia,' and 'My Maryland.'

The conflict of the armies had indeed ended. But the interval of repose was short, for the war of the politicians had just begun. The plans of the latter were promptly laid immediately upon the entry of the State capital by the army under Gen. Steele, on the 10th of September, 1863. Being afforded the protection of the Union arms, they gathered into Little Rock, citizens of the State, mostly original Union men, with some deserters from the Southern cause, and set about the formation of a State Government which should be 'loyal' to the Union, and replace that which had been constructed under the auspices of secession upon the constitution of 1861. The plan was at first whispered, and received anything but encouragement from the military. In fact the projectors were contemplated with a coldness by the victorious and pampered sons of Mars, under whose ægis they had ventured to follow in, with a coldness that would have deterred men less zealous. But the tendency of events, foreshadowing the inevitable defeat of the Confederate

cause, encouraged, and finally sanctioned their purposes. Mr. Lincoln, the President, was consulted, and favored them with a proclamation.

Appearances are deceitful. Under the faded or dirty military

developed. Chosen mostly from military organizations of State 'troops,' elected in the camps in many instances, in almost every case, I may say, many miles away from the counties they represented, delegates were now assembled



EX GOV. ISAAC MURPHY.

clothing in which a majority of these patriots were disguised, the mottled beards and sombre physiognomies which most of them wore, the beholder could not easily discern the high qualities of statecraft which they subsequently

in the vacant State house to organize a convention for the adoption of a State Constitution. The situation was not favorable to protracted legislation. A constitution was quickly framed, which provided for an early meeting of

a General Assembly—April 11th, 1864.

The changes produced had been very great, beyond the expectations of men. Those that were to follow were equally unforeseen. It had not yet been intimated that suffrage would be conferred upon the freedmen. "Where was it ever known," said William Lloyd Garrison, in reply to some one who objected that this would be the result of emancipation, and while Mr. Lincoln hesitated to go that far even,—“where was it ever known that liberation from bondage was accompanied by a recognition of political equality? Chattels personal may be instantly translated from the auction block into freemen; but when were they ever taken at the same time to the ballot-box, and invested with all political rights and immunities? According to the laws of development and progress it is not practicable.” So thought the prophet of abolition. But he had not looked next door. Wilberforce before him had intended merely to consecrate the “soil of England to freedom,” the quasi-freedom only of a British ‘subject.’ In the English slave colonies, the chattel translated from the block into a freeman, was very soon taken to the ballot-box. New Englanders were ever Anglo-maniacs. It was not reasonable that we would stop short of the example of the ‘Mother Country.’ The New

Englander was not likely to overlook the *elements* of supremacy. It was the element of *power* in the negro that first made him an object of interest. He was behind an agricultural system the most powerful to wage war with mercantile and manufacturing thrift. Three-fifths of him were represented in the Congress and the electoral vote for President. Mr. President Johnson was plainly coquetting for the support of this power. His rivals had not yet become alarmed. There were some indications of an appreciation of this hidden resource in the open-air meetings that were held of freedmen in Little Rock, at which Judge Liberty Bartlett presided, and Mr. Charles Farrelly was one of the speakers. Judge Bartlett had made soap at Camden, in the State, for the Confederate army, which accommodated itself as usual to the unprecedented scarcity. He was elected Judge of the Little Rock Circuit under the new Constitution. Mr. Farrelly had enlisted as a volunteer in the Confederate State militia, but declined to enter the Confederate regular service.

The new Constitution had refrained from taking the translated chattel immediately to the ballot-box. It confined its superior privileges to ‘free white men.’ Section 21 of its bill of rights provided:

“That the free white men of this State shall

have a right to keep and bear arms for their common defense."

The second section of its fourth article, regulating the qualifications of electors, declared:

"Every free white male citizen of the United States who shall have attained the age of 21 years, and who shall have been a citizen of the State six months next preceding the election, shall be deemed qualified to vote in the county or district where he actually resides; or in case of volunteer soldiers, within their several military departments or districts, for each and every office made elective under the State or under the United States laws."

It provided for the election of a Governor and Secretary of State, for a term of four years, and an Auditor and Treasurer, for a term of two years. An ordinance of the convention authorized a Provisional State Government, and a Provisional Governor, Lieutenant-Governor, and Secretary of State, to be elected by the convention, and continue in office until their successors were elected by the people.

None of the ordinances or proceedings of the convention seem to betray the touch of Mr. Wm. M. Fishback, whose official apartments as officer of the Treasury Department were in the old Beebe residence, opposite the State-house. Mr. Fishback had been a delegate to the convention of 1861; had voted for the ordinance of secession, against his convictions, and he took an early opportunity to renounce his short-lived adher-

ence to the cause of the Confederacy. He was a lawyer and a man of ability and attainments. But it is said that the motto of *audax et fides* would not be appropriate to his heraldic crest. He would have made an executive under the new constitution who might have held the position to the end of his term, by skillful modifications to meet the changing demands. He underestimated the advantages of the position, and gave evidence of an ambition for the more dignified office of U. S. Senator. Congress not being ready for the admission of the State, refused to receive him as such.

Isaac Murphy, of Madison Co., was elected Governor. This was considered an eminently proper selection. He was the delegate from the mountain district, on the Missouri border, who, Spartan-like, had stood firm in the convention that passed the ordinance of secession in 1861, and refused to vote for that measure. A solitary figure among the hundred delegates, he raised his voice in protest against this gross political heresy. To the appeals of the President of the convention, his old neighbor and party chieftain—and of his former fellow union-men that he consent to make the vote unanimous, he remained obdurate. He was not a learned or gifted man, but his course on that eventful day caused him to be remembered as a man of heroic

firmness and fidelity to his pledges and to the Union. What he said and what else he did were forgotten, and that bold stand, alone, had made him illustrious. Rather slender of form, gray-haired and partly bald, with weak eyes that wept involuntarily, he made a brief explanation which was barely heard, but he stoutly voted No! to the last, and that vote now made him Governor; at first chosen Provisional Governor, and then, at such elections as were held, Governor. After he took possession of the executive office, I had occasion more than once to talk with Governor Murphy, after the collapse of the Confederacy, and the recognition of President Lincoln had made his position authoritative under the new powers and influence conceded to the victorious general government. Approachable, talkative, and kind, his appearance yet caused a feeling of sadness to the beholder. His tearful eyes, attenuated features and plaintive tones made one think that he must have undergone some experiences of training or grief that had wasted him to the skeleton, mentally and physically, of what otherwise he might have been. His conversation was also unusual and eccentric. He had no hesitation in asking any stranger who called upon him, in a kind or deprecatory manner, it is true, if he "was one of those wicked rebels who had helped to bring

ruin upon the country?" He used to say it was a good thing that it had gone out of fashion to hang men for treason. I ventured to suggest to him that there should be trial and conviction before hanging.

"Yes," he said, "I know the lawyers would want to make long speeches and confuse judges and juries with their rules and precedents, to show that red-handed traitors had not committed any crime for which they could be punished."

"But law is founded upon precedent," I said, humbly.

"It should not be so," he said. "If I had my way, I would burn up all the court reports, have no reading of authorities, but let every case come before the court upon its own peculiar circumstances."

"But Governor—" I began.

"But me no buts," he interposed; "I know that you are a rebel sympathizer, and wish to excuse some relative who ought to be hung for raising his hand against the 'best government the world ever saw.'"

And so the old delegate, who voted "no," went about and was regarded the embodiment of loyalty and licensed contemner of his fellow men who had been beguiled into taking up arms in behalf of the 'lost cause.'

One day, I was present when Hon. A. H. Garland called on him.



Mr. Garland had served with him in the Convention of 1861, had been selected member of the Confederate Provisional Congress and afterwards Senator for Arkansas at Richmond, and was now practicing law through his partners, Messrs. White and Nash, ex-Federal officers, mentioned above, although, at the time, he was disbarred by an act of Congress which was subsequently annulled by the U. S. Supreme Court on his petition. He had come to ask the Governor to append his signature to a recommendation to President Johnson for the pardon of Judge David Walker, who had been President of the Convention of 1861, and afterwards espoused heartily the Southern cause, and presided over a military court to try offenders against the military laws of the Confederacy.

"Sit down, Garland," said the old gentleman, glancing at the paper with an ominous expression of displeasure. But he brightened up as he met the light of Garland's large, dancing, black eyes, contemplated the immense head of unkempt hair, the rather sensual lips puckered with suppressed mirth, as Garland took a seat drawing his rough tweed overcoat about him.

Mr. Garland laid the paper open before him on the table, and stated its object.

"Now, Garland," said the Governor, in a more amiable tone, for

he had a great respect for his old colleague who had also opposed secession. "Why do you come to me to recommend Judge Walker? Judge Walker need not have gone into the rebel army and gone so actively into the support of the rebel cause. He was old enough to know better, and to stay at home. This is asking a great deal of me."

"Very well, sir," replied Mr. Garland, rolling up the paper with an expression of severe reserve: "No one knows Judge Walker better than yourself; no one could, better than yourself, understand his motives and make allowances for his course." And he turned as if to go.

"Hold on, Garland, don't go!" exclaimed the Governor; for his visitor knew where to touch him, and had done so most effectually. "Hand me that paper again, and let me see what it says."

He pretended for several minutes to be engaged in reading it, though I knew he could not make out a word, if it was written in Mr. Garland's delicate hieroglyphics; and then laying it on the table he asked:

"Where must I sign? You know, Mr. Garland, that the Government must do something to prevent another rebellion! Now pardoning the head leaders is a bad way to begin."

Mr. Garland remained silent with a demure expression, until the

Governor had signed the application; then throwing off his reserve he told an anecdote vaguely illustrating the reward of kindness and liberality; and ended with a quotation of some words of a comic rhyme, of which I have a dim remembrance. It was something about a certain—

Mr. Terrence McGe-hee,

A very fine man was he-hee,

Who sometimes got on a big spree-hee," etc.

At this the Governor laughed dubiously. When Mr. Garland had gone down stairs, the Governor said to me, just before admitting another visitor, as I rose to go:

"That is a very bright man—that man Garland. What a pity he is a lawyer!"

I did not think Governor Murphy really meant the half that he uttered in denunciation of the 'rebels.' He had not in any way suffered by the results of the conflict. On the contrary, he and his fellow officials had been elevated into positions of profit and power by it. Yet it would seem that he but declared the spirit which pervaded all the laws and measures of the new State Government. The predominant idea seemed to be proscription and punishment of 'the rebels.' Though they were objects now worthy, it would seem, of compassion only. They were miserably poor and in debt. There were few of them that were not sorrow stricken. They were dis-

appointed and deeply humiliated by their terrible defeat and its consequences. While they were in the army as soldiers, or in exile as refugees from their homes, the Legislature, under the new State government, on May 31st, 1864 (fully a year before 'the surrender'), had passed the act, entitled "An act to suspend the collection of debts, and for other purposes," which contained, in section five of the act, the following:

*"Be it further enacted,* That any person hereafter aiding or abetting the rebellion, or that has or shall hereafter violate his oath of allegiance, and all persons who are now in arms, and all rebels in prison by the federal authorities, and all persons who have abandoned their homes, and have fled, and have taken protection under the so-called Southern Confederacy, shall forever be barred from the collection of their debts in this State, of every description whatsoever, and all courts having jurisdiction in this State are hereby required to dismiss said suits whenever such proof is made, at the plaintiff's cost."

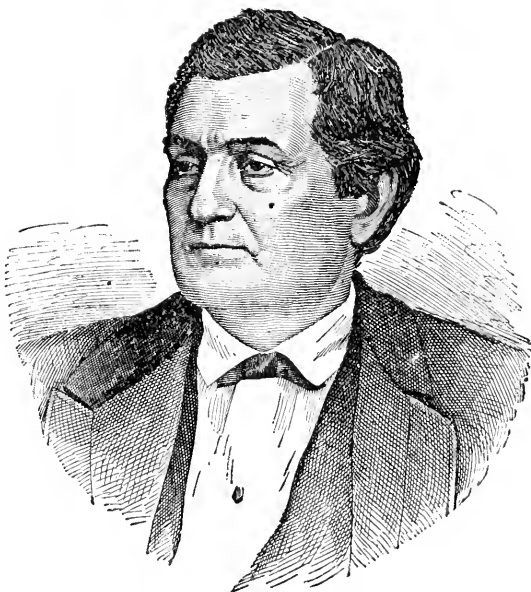
It will hardly be imagined that it should ever have occurred under this unjust law, that returning 'rebels' themselves, would have assigned to ostensible 'loyalists' negotiable instruments of other 'rebels,' and through their 'loyal' agents obtained judgments against their compatriots in rebellion who had not yet returned from distant fields of service. Yet I knew of several instances. The impatient creditor was not, however, in any instance a combatant. I don't

think a soldier would have done it.

"The bravest are the tenderest: the loving are the daring."

I was impressed with the idea when I saw this law published in Dr. Meador's loyal newspaper, called "The National Democrat," that it was an improvement

bridge. Any important change in an orderly design leads to others that could not be anticipated. If the persons in charge, had permitted returning rebels to vote without restriction, as provided in their constitution, the rebels, in the exercise of free *election*, would have



EX-GOV. ELISHA BAXTER.

on the code of Judge Lynch, whose proceeding was to catch an offender before hanging him. It was directly in the teeth of the new 'bill of rights.' It is not to be forgotten that these state-makers had some knotty questions to solve and difficult situations to

chosen other men to represent them. The power of the 'new men' would have been brief. Yet no 'free' election,—no free government. It was a tangled skein. We are not to wonder that it was hard to unravel. The new officials were novices in the art of

law-making. They had never pondered upon the principles involved, for want of opportunity. Perhaps it never occurred to them that study was required. So they folded up their 'Constitution,' and in violation of its provisions proceeded to enact an election law as follows:

"Sec. 6. *Be it further enacted:* That each voter shall before depositing his vote at any election in this State take an oath that he will support the Constitution of the United States and of this State, and that he has not voluntarily borne arms against the United States, or this State, nor aided directly or indirectly the so-called Confederate authorities, since the 18th day of April 1864; said oath to be administered by one of the election officers, and this act to take effect from and after its passage."

The act was approved May 31st, 1864. Its intention was to disfranchise the great body of the 'rebels.' They were then in camp, standing to their colors, faithful in the hour and article of dissolution to their dying Confederacy. As men of honor and courage, they could not have been otherwise. Their position no one could fail to understand or admire, friend or foe. There must have been a strong motive in the framers of the law, to cause them to extend an invitation which was merely tantalizing. It resembles the devices of ancient humorists who delighted to trifle with the most serious emotions of their victims. The hour was the carnival of the war.

It was a time of mockery and masquerade. Its exhibitions were grotesque beyond any similar festival since the grim phantasm of the French Revolution, 1793, when Robespierre perfected the working of the guillotine for his own execution.

The only newspaper published at the capital was issued from the office of Mr. J. D. Butler. He had not participated in the rebellion or favored secession. His paper had been issued as a mere advertising sheet, and circulated free of charge among the business men of the city. But it began to come out in the summer of 1865 with editorial articles pointing out these inconsistencies and the unconstitutionality of the laws which had been enacted by the recent legislature. Its circulation was rapidly extended; its advertisements increased, and it met with ready sale on the streets. It grew daily more severe in its criticisms and more tentative in its appeals for equal rights. It was called *The Pantagraph*, and was printed in the block nearly opposite the State-house.

"Those devils that are running that paper, over there," Governor Murphy used to say, "are trying to revive the rebellion. They will never be satisfied until they are closed up, and their types are thrown into the river, or they cause somebody to be hung!"

He sent over and obtained the

first copy that was issued from the press regularly every day, and as his nerves were unsteady, would seem to seize it with trembling hands. It was a source of undoubted annoyance to him. One day it contained a short paragraph charging him with unbecoming bias in refusing to recommend the pardon of Grandison D. Royston, by the President, when he had so lately signed the recommendation of Judge David Walker, the chief of 'rebels.' Gen. Royston was an old resident of Hempstead County, which had been the home of Mr. Garland, but was an 'original' secessionist.

"Well, how do the devils of that newspaper obtain their information of what goes on in my office?" he asked of me, one day. "Do the writers for it come spying through the State house, or are they employed in the Post office? It seems to me that I cannot write a letter that they do not find out its contents." The Governor was rather jealous of the Federal officials.

On the 7th day of September, 1865, the paper came out with an article entitled "A Crime Against the People of the South." It started out by asserting that:

The men who, by legislative enactments, have undertaken to withhold indiscriminately from the Southern people engaged in rebellion, the sacred right of franchise, premeditate a great crime against those people. A large majority of the people of Arkansas re-

mained loyal to the Government until overcome by the overwhelming power of secession which brought all civil and military authority to perfect submission. When we reflect that in a most trying moment they were abandoned by the United States Government, and no less a person than Mr. William H. Seward is heard saying on the floor of the Senate: "I have such faith in this republican system of ours that there is no political good which I desire that I am not content to seek through the peaceful terms of administration," which was reasonably construed as a pledge to sustain Mr. Buchanan's policy—"not to coerce a State." He also very plainly intimated that Sumter would be evacuated, and actually ordered the withdrawal of the Powhatan, the vessel ordered to relieve Sumter. Even Gen. Scott wrote: "Let our erring sisters depart in peace." Mr. Chase said: "Let the South go. It is not worth fighting for." Mr. Holt, while Postmaster-General in 1860, had written: "These liberty bills which degrade the statute books of some of the free States, are confessedly a shameless violation of the federal constitution in a point vital to the country's honor. If the free States will sweep the liberty bills from their codes, propose a convention of the States, and offer guarantees which will afford the same repose and safety to Southern homes and property enjoyed by those at the North, the impending tragedy may be averted, but not otherwise." Edwin M. Stanton told A. G. Brown, of Mississippi, that he (Brown) "was right; it was the only course to save the South. He must keep his constituents up to it."

The newspaper then came to the obvious purpose of the article, when it concluded:

The venerable person who now exercises the functions of Governor of the State of Arkansas, though he voted against the ordinance of secession in compliance with instructions,

as he explained, was nevertheless the first mover of a resolution in that convention when it reassembled at the call of President Walker for taking action in view of the invasion of the South by the armies called out by President Lincoln. That resolution was for "requiring the committee on military affairs to prepare and report a plan for the organization and arming of the State, and to report the same as soon as practicable, and to put the whole population on a war footing as speedily as possible." The journal of the convention containing this resolution is in our possession, and can be seen by any one who may so desire. He also voted for representatives to represent the State in the "Rebel Congress." When he voted against the ordinance of secession, he declared before the convention that he did not so vote because he was not a rebel; that he was a rebel, and while he did not believe in the doctrine of secession, he would, as a rebel, be found battling for the independence of the South as long as he had a hand to raise in her defense. Is it strange that a people led by such guides should go astray? Is it not strange that the leaders who misled and then abandoned them should now wish to punish them? The people did not go until they were led. They did not return until they were invited. Now they have returned, they are told they must be punished. It is a great crime against these people to be so used. The retribution of heaven will be visited ultimately upon its perpetrators.

This was the article. I kept a scrap of it because of the events that followed its publication. The publisher and his employes went to their homes that night as if nothing had happened. They were pleased to see that the paper was

being read approvingly by the people. The writer of the article, who was not generally known as its author, I learned afterwards had sent it to the press from a sick room.

When the publisher and his men came to the office early the next morning, they found it closed, and the press in the hands of United States soldiers. The paper had been suppressed! A sergeant of infantry and sentinels stood guard over the office of *The Pantagraph*, by order of Maj. Gen. Reynolds, in command of the Department of the Southwest.

Now, what was there in the article that invited the forcible suppression of the paper by the United States authorities? The fact of the military seizure of the press caused the paper to be sought for and read by hundreds who had overlooked the offending article. When they had read it over and over again, they still wondered what there was in it that called for the suppression of the paper. There was, however, one who very well knew;—the writer of the article. He had not yet recovered from the effects of a malarial fever. It was the sultry season in Little Rock. The heat and miasma were perceptible as they arose in undulations from the steaming earth. The publisher, greatly excited by the event of military interference with the 'liberty of the press,'—

frightened, and yet rather gratified to be an actor in a sensation—visited the writer and gave him his impressions of the condition of affairs.

There was consternation among the old politicians who preferred wily, secret methods. There was alarm among the people who had just returned from exile. They beheld for the first time the power of the 'mailed hand.'

Mr. Butler, the publisher, did not exhibit any personal fear of the consequences. He had not taken part in the hostilities, but had remained in the city. He seemed to feel a genuine alarm for the safety of the writer of the article, who assured him on learning that Gen. Reynolds was a graduate of West Point and had been a college professor, that as soon as he could go to see the General he would explain the article. He was satisfied that if the General was a man of letters and of liberal information, the explanation would be accepted.

"Don't think of it," said the publisher. "He will order you out of the department. He has said he would order the author of the article out of the department." For a week, the sentinels were mounted and relieved in front of the entrance to the printing house of the *Pantagraph*, and its presses were silent. At the end of a week the writer of the article was able to dress and walk down from his

rooms, in the Ringo dwelling, to the General's headquarters in the Ashley mansion. Very quiet and cool seemed the wide hall up stairs as he and the publisher waited a response to the card they had sent in. The General came, bareheaded, in undress uniform, into the hall where they were alone, and bade them take seats. He had the obnoxious article rolled over a thin book or card-board, and sat down holding it in his left hand, and with a pencil in his right, as if to point out the most objectionable features. He looked the college professor to perfection. "Now," he began, with an expression of much severity, "you have here printed an article, on the heels of a great rebellion, which reproaches the officers of the Government with the perpetration of a great crime! And I am told, Mr. Harrell, that you have been a soldier in that rebellion against the Government."

"Give me only five minutes, General," replied the writer of the article, "and if I do not explain to you that the cause of offense is not against the officers of the Government, but against those who are imposing upon them, I will submit to any decision you may render."

"Very well," replied the General, coldly, "I will hear you. Proceed."

Then the writer took from the chair beside him a printed vol-

ume, entitled "Journal of the Convention of 1861," and stating what it was, opened at the pages which he had turned down, and read the following, dated the 6th of May, 1861:

"Mr. Murphy (who was the delegate for Madison County, and now the Governor of this State) offered the following resolution, which was adopted:

*Resolved*, That in view of the danger that surrounds the Southern States, it becomes the State of Arkansas to put the whole population on a war footing as speedily as possible; the committee on military affairs are therefore instructed to prepare and report a plan for the efficient organization and arming of the State, and report the same as soon as practicable."

"While that article does not contain one misstatement of fact, it makes no protest against the authority of the United States. It makes no unauthorized criticism of any one. It is a protest against the denial of the constitutional right of the citizens of this State to vote.

"You cannot fail to see, General, that Mr. Murphy, who accepts great commendation for his persistent loyalty in voting against the ordinance of secession, was then very far from being the loyal patriot he is now regarded. The article offends him because it contains an allusion to the resolution offered by him in the convention of 1861, to put the population of this State on a war footing against the authority of the United States.

By the publication of that article he saw that he was about to be unmasked. The first part of the article, he knows, was merely leading up to the mention of his part in the performances of 1861. The threatened exposure exasperates him. He interprets the article to you in person, or through his agencies, as intending to challenge the authority of the United States, which he counseled the people to resist in former days. He has thus influenced you to interpose your power, as commander of the military, to stop the publication of the record he cannot deny. He must have feared the results of his action, for in another resolution he proposed that the proceedings of the convention should be secret. None of us feel any personal animosity for him. We merely protest against the measures of his administration."

"Give me the book," said the General. "Your article was undoubtedly misinterpreted by me," he said, after a quick but close inspection of the book. "Return to your paper, and say in it, if you please, that I approve it fully, and am under obligations for the information it contains. I will order the guard withdrawn from your press. If there are other records that will afford information proper to be known by the people, publish it. I will take care that you are not molested."

He gave each of his visitors his



hand as he arose from his seat, and bidding them good-day, retired to his room. They went down the stairs with lighter steps than they came up them, and going up the street, quietly took a look at the unconscious sentinel walking up and down in front of the printing house.

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SECOND PAPER.

"Woo'd and married and a'—  
Married and woo'd and a'!  
And was she sae very weel off  
That was woo'd and married and a'?"  
—*Alexander Ross.*

The paper was issued the next day, with a report of the visit to headquarters, and the interview with General Reynolds. Its leading editorial was in a tone of temperate exultation at the result of an understanding with the military authorities, spiced with some good-humored gibes at the civilians. It announced that if it should hereafter refer to the Governor as the venerable 'rebel,' who exercised the executive functions, it hoped no offense would be taken, as he had assumed the name himself in preference to that of secessionist, reminding him that the fifty-four signers of the Declaration of Independence—Washington and his Generals, and the army of '76—were contented to be so called, and the only one

among them, who preferred the name of 'loyalist,' was Benedict Arnold.

The editorial article proceeded to aver, that there were examples, and very high authority, to justify secession, and sanction the name of 'secessionist,' which was preferred by some who maintained the right of the Southern States to withdraw from the Union. Only such examples would be cited as were afforded by the action of the New England States, and such authority as an old Federalist and Whig would endorse and venerate.

Timothy Pickering, Senator of Massachusetts, had written in 1804, that "A *Northern* Confederacy would unite congenial characters, and present a fairer prospect of public happiness. The separation must begin in Massachusetts."

Josiah Quincy, also a Senator of that State, declared in his speech on the admission of Louisiana: "If the bill passes, it is my deliberate opinion, that it is virtually a dissolution of the Union; that it will *free the States* from their moral obligation; and as it will be the *right of all*—it will be the duty of some—to prepare for separation; amicably, if they can; violently, if they must."

George Cabot, also a Senator of the same State, wrote from Washington in 1803: "I will rather anticipate a new Confederacy, exempt from the corrupt and cor-

rupting influence of the Democrats of the South."

Delegates to a Convention of New England States at Hartford, Connecticut, in 1814, adopted a memorial which contained, among many similar, such sentences as these: "Some new form of Confederacy should be substituted among these States,—a separation by equitable arrangement will be preferable to an alliance, by constraint, among nominal friends."

And, in 1844, the Legislature of Massachusetts adopted resolutions which concluded with the avowal, that "The project of the annexation of Texas, unless arrested on the threshold, may tend to drive these States into a dissolution of the Union."

Among the great names quoted as authority for the course of the South, was that of President William Henry Harrison, who said in his inaugural address, approved by his Secretary of State, Daniel Webster, in 1841: "The attempt of citizens of one State to control the domestic institutions of another, is a certain harbinger of disunion and civil war. Our Confederacy is perfectly illustrated by the terms and principles of a common partnership."

President Fillmore said, in a speech at Capon Springs, Va., in 1854; "I have not hesitated to say and I repeat, that, if the Northern States refuse, wilfully and deliberately, to carry into

effect that part of the Constitution which respects the restoration of fugitive slaves, and Congress provides no remedy, the South would no longer be bound to observe the compact. A bargain cannot be broken on the one side and still bind the other side."

And Henry Clay said in the Senate in 1839: "The Abolitionists, let me suppose, succeed in their present aim of uniting the inhabitants of the free States as one man against the inhabitants of the slave States, a virtual dissolution of the Union will have taken place, while the forms of its existence only remain. And if the Abolitionists were to conquer, whom would they conquer? A foreign foe? No sir! It must be a conquest without laurels, a conquest of brothers over brothers, of common ancestors who had nobly pledged their lives, their fortunes and their sacred honor to establish the independence of these States."

The editorial article added: The only sin of the South was, that she delayed too long. She hesitated, and was lost. We succumb to the power of superior armament and numbers; but refuse to confess to the charges of treason, rebellion and perjury, when we did not commit them. Rather let those who violated and annulled the Constitution and invaded sister States, apply the epithets to themselves.

This seemed to me to be an audacious article, and certain to invite the final closing of the printing office; but there was no further interference. Perhaps there was a medicinal *placebo* in its concluding paragraph:

"That there is a class in the United States and in the State of Arkansas, to whom the idea of a restoration of peace is repugnant, cannot be disputed. But in this class, we are happy to say, cannot be numbered the officers and soldiers of the army of the United States. This we lay down as a rule, to which there are exceptions. So true it is, the world over, that the brave are generous, forgiving, magnanimous.

"We ask the citizens of Little Rock if our assertions are not borne out by their experience? Who is there among them can complain of intolerance, injustice, or injury, to be avoided in his situation by Maj. Gen. Frederick Steele? We have never heard a complaint against his successor, but have personal knowledge of many instances of his courtesy and forbearance. And the private soldiery, the citizens are in justice bound to concede that their considerate conduct under all circumstances; their manly bearing in the absence of official restraint, when it has been in their power to insult and oppress, is worthy of the highest encomium."

Against the civilians, remonstrance and caricature, were alternately employed. The people read with increasing interest; the military were diverted; but the civilians raged. The records that the latter had made were cited to sustain every impeachment against them. For example, the act of the late Legislature

passed and approved to pay the military staff of the Governor, who were placed very high in rank, in time of peace, provided that they might demand and "receive the same pay and allowance as officers of the same grade in the United States Army," and required also, "that the Adjutant-General of the State be paid from the time he entered upon his duties." This act was republished with sarcastic comments.

The Adjutant-General was a gentleman from Buffalo, New York; a relentless partisan and deemed himself a missionary of manners and refinement, as well as of political reform to the rebel barbarians. He had attached himself to the illustrious Delegate of the Secession Convention when Gen. Herron, after the battle of Prairie Grove, had entered and overrun the counties on the northern border.

Adjutant-General Bishop was of a literary turn, and had published "A History of the Loyal Heroes of Northwest Arkansas," which contained a free sketch of the sacrifices and services of the faithful member from Madison County. The pages of this little book were further embellished with highly colored matter that had been ruthlessly imposed upon the enthusiastic author. He it was doubtless, who procured the passage of an act which bears a resemblance to his mincing style of

writing and 'bloody conclusions,' and which prescribed an unusual decoration to be worn by his militiamen, as follows:

"All State Militia, provided for in this act, shall wear as a mark of distinction and for the purpose of being recognized at a distance, a band of red cloth, three inches in width, to be worn on their hats, or in the most conspicuous manner. And every person found wearing said mark of distinction, who does not belong to said militia, or to the Federal Army, shall, by sentence of military authority, suffer death."

The General wore the 'mark of distinction' conspicuously in the lapel of his coat, in the form of a scarlet ribbon. He was tall and 'willowy,' had a down curving length of nose, narrow forehead and short chin almost hidden by an enormous mustache. He wore the hair of a diminutive head in long tresses, which waved gracefully to his undulating movements with which he picked his way, when walking the thoroughfares with elastic step. He had no cause during his term, so peaceful was the time, for calling out his men; but in person he remained near his illustrious chief in the hour of his greatness, and drew salary, or pay and allowances, with military promptitude. The paper quoted the clause of the act and urged the 'Red-rag-Murfians' to put on their 'marks of distinction,' and suggested that if they should be called on to do battle, the most 'conspicu-

ous manner' of wearing them would be to sew them on their backs.

One of the measures of the late Legislature was criticised with the gravity it deserved. From the time it was adopted it had failed to receive the approval of the Commanding General, and proved a dead letter; while it remained on record to show the inclination which prompted it. It was a concurrent resolution of the General-Assembly which received the Governor's approval and was as follows:

*Whereas*, There are living within the Federal lines in the district of Little Rock, two thousand refugees, citizens of the State, who have been driven from their homes by the outrages and violence of rebel armies and bands of guerillas who infest different parts of the State,

*And whereas*, The property-holders, who have encouraged and now sympathize with the rebels, are in whole responsible for the existence of the rebellion, and there are now residing in Little Rock many of the families of such rebels and sympathizers, being easily and comfortably in the possession and enjoyment of their property, while the refugees are suffering all the horrors of disease and famine brought upon them by these rebel citizens and their aiders and abettors in the rebel army and guerillas,

*"Therefore be it Resolved by the General Assembly of the State of Arkansas:* That the General, commanding the Department, be requested to appoint five men of unquestionable loyalty to make an assessment of — dollars upon the property of the disloyal and their sympathizers, having due regard to the wealth of said parties; and the said Commis-

sion shall have the right to decide the question of loyalty upon proof presented to them; and this tax shall be collected and disbursed under such regulations as said General or Commission may judge best."

This was to be a Commission invested with rare powers. It was to be authorized by the sword, was to levy, assess and collect taxes, without limit, and judicially determine upon such 'proof' as they might choose to hear, or receive, who were the 'disloyal' to be made victims; having no regard to anything but 'the wealth of the parties.'

I was 'a sympathizer' with the Confederates, because I could not help it. The ties of friendships and associations actuated me, I suppose; but whatever the influence, I could not resist it. I had some houses in the city that were paying rents, and I had impecunious and envious neighbors who would have readily testified to anything before such a Commission, in order to get my houses, or the rent of them free, or for pay given them by others with such designs; and I had no hopes that the five Commissioners, who might be as impecunious, or more grasping, thus authorized, would find any difficulty in discerning my true inwardness. It was distressing and alarming to behold the fear created by this measure at the time it was adopted. Many sympathizers ceased to sympathize.

Feeling secure from any attempt of the State authorities to carry out these or similar oppressions, because of the military protection of which, now, they felt assured, the people, or some of them, were encouraged to meet in county conventions and send delegates to a State convention of 'the people,' for the purpose of entering a protest against disfranchisement, 'taxation without representation' and petitions of some power for relief from their varied evils. Some timid persons besought the paper not to take the risk of calling such a convention. But there was to be an election for county officers and members of the Legislature on the first Monday in August, 1866, and if the people should be free to vote in that election, they would elect their own representatives, who might be relied upon to pass laws for the general safety and prosperity. A call for a convention was decided upon, and made by a small county meeting of which William Miller, afterwards Governor, was president, and J. M. Harrell, secretary. It was to be held at Little Rock, December 12th, 1865. The object, as announced in the call, was for the purpose of organizing a People's Party, which should favor the maintenance of the constitution—State and Federal—and the restoration of peace and a republican form of government for the State of Arkansas.

The authors believed, that under the constitution, none but free white men could become qualified electors. As the constitution of the United States then existed with the Thirteenth Article of Amendments abolishing slavery added, none but free, white men could become naturalized citizens. Mongolians, Indians, Africans or their descendants were excluded.

The convention met according to call in Robbin's old theater, on Main street. It was understood that Gen. T. W. Sherman would be present at the convention and citizens, induced by curiosity to see him, added greatly to the small number of delegates who had come up from the counties. Dr. Lorenzo Gibson, of Little Rock, was chosen president, and a number of secretaries appointed. A committee was designated to notify Generals Sherman and Reynolds that the convention was ready to receive them. The committee attended them in an open carriage drawn by four horses from the Morton residence, where Gen. Reynolds was residing, to the hall of the convention, where they were assigned to seats on the stage. The large concourse of people who had gathered through curiosity, filled the hall and mingled with the delegates, so that 'the convention' seemed to be a numerous and intelligent body.

The president of the convention delivered an opening address that

was dignified and appealingly eloquent. Dr. Gibson was a practicing physician, a life-long citizen, universally respected, had served the county more than once in the Legislature of the State and was an eloquent and accomplished orator. He was of portly person, with a countenance that beamed with intelligence and good humor. It was evident that his remarks produced upon the two generals a favorable impression.

At the conclusion of his speech he introduced Gen. Sherman, who was in uniform, and who proceeded to address the large audience that filled every part of the theater. His speech was reported by the *Little Rock Gazette*, whose then owner, Mr. Holtzman, was present, although he took no part in the convention, having taken sides with the Union. I take the report of Gen. Sherman's speech from the *Gazette*, as it was copied into the *St. Louis Republican* of the 14th December, which I saved in a clipping:

#### SPEECH OF GEN. SHERMAN IN LITTLE ROCK

Gen. Sherman attended the People's Convention held at Little Rock on the 12th inst. The *Little Rock Gazette* gives us the substance of his remarks on that occasion:

He commenced by saying, that the object of the convention had been fully set forth by the president, and as stated by him, it is not expected or desired, either for himself or any other military officer, to engage in political discussion. It was his duty to obey the laws of the country; and that America was the

only country in which law governed, and the law was his God.

He knew nothing of the authority by which the present convention was called, nor did he care to know. But the people in each neighborhood and county and State had the right to meet together and consult as to the best means of advancing their interests and the interest of their respective States.

He thought that the duty of the hour was, not to engage in political discussions; but for each and every man to go to work. We wanted elbow grease. He said that Arkansas was behind most of her sister states because she had not adopted heretofore any system of internal improvements to lead to the development of her vast resources. (\*) \* \*

The delegates of the convention, he said, ought to be sure they are representing the people and sentiments of the counties from which they come. He knew the Southern people, and he had yet to see any high-toned Southern man, who would willingly or intentionally misrepresent himself to obtain preferment or place.

Don't be in a hurry; bide your time; help build up your country and never mind about voting. He thought that in time all would work well. He believed all were now in favor of peace; every one desired it; and there was peace. There should be peace, and it was the duty and the pleasure of Gen. Reynolds to receive and hear from each individual of the convention, or of the State, any and all grievances; and they would do all in their power to aid and assist the people in their efforts.

He believed that if proper representations were made in a respectful manner, and they were of such a character as required executive interference, that President Johnson, or

even Congress, would give the matter their attention, and without delay rectify the evils of which they complained.

At the conclusion of the speech, Gen. Reynolds made also a few remarks which were timely and well received.

So kindly and bluntly spoke the hero of the "March to the Sea;" a hard-hitter in battle, but a magnanimous victor, whose convention with Gen. Johnston for the latter's surrender was too liberal for the Secretary of War, and was disapproved by him, for which the sturdy soldier refused to shake hands with him on the platform in front of the White House, where Sherman was the hero of the day, in the last review of his grand army.

It was evident from his speech, that some one had sought to disparage the convention, but in vain. If the people had grievances, he believed the President or even Congress would relieve them without delay. His attendance and utterances before the convention caused a profound impression. They were like air and sunshine to a prison-house. It encouraged even the rulers to be less proscriptive. It gave assurances of peace and security.

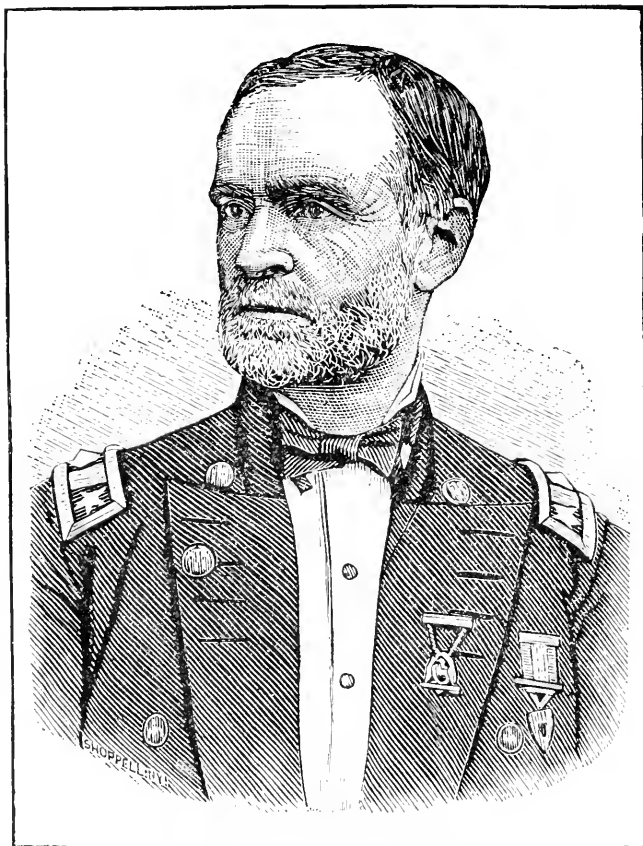
When the president of the convention had appointed some committees, the assembly took a recess and delegates conversed with the two officers for a few minutes prior to their departure from the hall.

(\*) What he said here in comparison between Arkansas and Missouri, and his references to the States of South America omitted.

The Supreme Court of the State was then composed of T. D. W. Yonley, Supreme Justice, and Elisha Baxter and C. A. Harper

appeared. Judge Yonley was a Virginian, and had removed to Little Rock in 1859.

Judge Baxter came from North



GENERAL W. T. SHERMAN.

Associate Justices. The two former were actual citizens; the third had appeared in the State suddenly and as suddenly disap-

peared. Judge Yonley was a Virginian, and had removed to Little Rock in 1859. Judge Baxter came from North Carolina and settled at Batesville, in 1852, where he was a merchant, at first, and then studied law. He represented Independence county



twice in the State Legislature before the war. He was a Whig in politics and sided with the Union. Captured in Missouri, in 1863, by Col. R. C. Newton's regiment of Confederate mounted men, on being paroled to report to Gen. Holmes at Little Rock, he kept his word, when, through the blundering of officials, he was consigned to the county jail, then used as a prison by the military as well as the civil authorities, and by W. M. Randolph,\* the Confederate States Attorney, was caused to be indicted for treason against the Confederacy. He made his escape and recruited the Fourth Arkansas regiment, Union volunteers, and reporting to Gen. Livingston, was assigned to the command of the post at Batesville. On the organization of the new State, he was made one of the Judges of the Supreme Court, and subsequently elected, the same year, United States Senator, but was not admitted.

Chief Justice Yonley was an original character of great natural ability. He had been denied, or else had slighted, opportunities for 'early education.' He had studied law before he entered into the practice at Little Rock. He was well grounded in his profession, full of resources, self-made,

self-reliant and aspiring; frank and manly, and rapidly made friends. In the heat of the political discussions of 1860, he avowed himself in favor of the Union, and boldly debated 'the issues' with any challenger. Hence he caused no personal feelings against him when he took sides with the Unionists after the conflict of war usurped the contests of the forum. His personal appearance and eccentricities rendered him the subject of good-humored comment at the bar, on the bench, and in the streets. He was fleshy, round-shouldered, careless of dress, and wore his hair and whiskers in tangled masses. He walked with a rapid, shambling gait, throwing out his hands, muttering to himself, or munching peanuts. I have seen him, when leaning forward to read an opinion behind the paneling of the 'bench,' slip off his shoes, and place his feet on the chair-round, in 'socks' not as stainless as his ermine. But Judge Yonley was always sure of himself, bore no malice, practiced no deceit, and was just and generous in all his dealings. He had great political foresight also.

About the time the Peoples' Convention was assembling, he called in Judge Harper and rendered a decision in the election case of *Rison, et al.* election judges, *against Farr*.

Captain Farr was a well-known ex-Confederate who, having re-

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\* W. M. Randolph was then the law-partner of Mr. Garland, but left the Confederacy, went to Memphis and became a Republican.

fused to take the oath at some election, was denied the right to vote, and sued the judges of the election. It was a case made to test the validity of the election law. The case had been decided against the election judges in the court below, and they had appealed. The papers published a synopsis of the Supreme Court decision, which created unbounded satisfaction. I give an extract from it:

So much of the oath as relates to bearing arms against the United States, refers directly to offences against the government of the United States, and are not within the powers and jurisdiction of this State to punish, even by due process of law. There are crimes which can only be punished or forgiven by that government. And the Chief Magistrate of the United States, acting on that principle, by his proclamation of the 29th of May last, in conformity with the authority conferred by the constitution of the United States and the act of Congress made in pursuance thereof, has most graciously extended pardon and amnesty to a large majority of citizens of this State who had engaged in the late rebellion, within the provisions of which the plaintiff below has brought himself by averments contained in his declaration. Hence to deprive him of his right to vote, on account of his participancy in the war against the United States, would be to punish him for a crime of which he had been pardoned.

The 10th section of the bill of rights declares, that no man shall be taken or imprisoned, or disseized of his freehold, liabilities or privileges, or outlawed or exiled, but by the judgment of his peers or the law of the land. And the 14th section of the bill of

rights provides, that no man shall be put to answer any criminal charge, but by presentment, indictment or impeachment, except as thereafter provided, which exception refers to petty offences, made cognizable before justices of the peace.

Then it is clear that, although treason is the highest crime known to the laws, the mere commission of that offense will not in itself work a forfeiture of the rights or privileges of the offender; but before he can be deprived of all or either of them, he must be convicted by due process of law. From this view of the case, the part of the 6th section, providing for the manner of holding elections, which requires the oath referred to, is absolutely null and void.

The decision was well argued and served the purpose. But on reading it, I thought of Governor Murphy's dislike for 'wise saws and modern instances.' It might have been said briefly: "Here is your State constitution. Here is the constitution of the United States, which forbids any *State* to pass a bill of attainder or *ex post facto* law. The State election-law is repugnant to the former, and plainly defies the latter in two aspects. It is void, and the judgment below will be affirmed."

Violation of the Federal constitution, however, did not seem to be regarded seriously at the time. It was boasted by Republican leaders that "they had discarded the parchment guarantees of freedom in order to secure the substance," *i. e.* freedom to whites secondary to that of the negroes.

The decision was to silence discontents and weaken the influence of their spokesmen. This it accomplished. There was nothing in the way now of a free election by the white men of the State. The election for county officers and members of the Legislature was held on the day appointed by law without restraint. The 'freedmen' looked on good humoredly. Not so, a quantity of new faces, of any specimen of whom Cæsar would have said as he said of Cassius:

"Yond' Cassius has a lean and hungry look;  
Would he were fatter!"

All unconsciously the people as a rule voted for the men of their choice. From a majority of the counties they elected to the General Assembly those who had led or defended them in the late struggle, and formed what was afterwards known as the 'Rebel Legislature.' It was a misnomer, however, because they studiously avoided partisan measures. But their action, when required as to measures thrust upon them, they took as might seem best for the State. Their constituents had not favored secession, and as longer heads had foreseen, did not yet perceive the purpose of foisting negro suffrage upon them.

For Representatives from Pulaski county Col. R. C. Newton had been elected without opposition. He was a native of Arkan-

sas, gifted and popular, son of Hon. Thos. W. Newton, the only Whig ever elected to Congress from Arkansas,—a gentleman who was loved by all who knew him.

Mr. Charles Farrelly was elected over Col. J. M. Harrell, by a majority of twenty-seven votes, as returned. The former was an avowed advocate of the Union. The latter had been for years a declared disunionist, of the school of John C. Calhoun, who predicted all that was now taking place. Only a part of his prophecy had yet been fulfilled. By a majority of the people of Pulaski county, composed, in part, of merchants and professional men from the North, the teachings of Calhoun were rejected. Reluctantly, and therefore with the greater patriotism, they had acquiesced in separation. They were now rejoiced to believe, that the Union was restored. They had eaten husks long enough, and began to ask: "How many hired servants of my father's have bread enough and to spare? I will arise and go to my father!" They were ready to overlook the mild encroachments of 'trade' and view complacently enough great stretches of constitutional limitation, and even yield states rights, to atone for the 'error' of secession; when the march of events soon taught them the value of the barriers of state sovereignty.

President Johnson very naturally

desired to continue in the office of Chief Magistrate. The Southern States were equipped with three-fifths of the negro population in their representation in Congress and the Electoral College. His course was plainly directed to conciliating the South. Congress discovered his purpose, and opposing his aspirations, determined to strip the Democracy of that element of strength, and control the five-fifths for the support of the Republican party, by giving the negroes themselves the right to vote. It was their last resort.

The awful menace of negro domination and its attendant dangers, at once arrested the growing inclination to nationalism, as if by magic. Political visionaries, even when actuated by the purest philanthropy, seem at a loss to understand this all-powerful repulsion of blood, that vast body of natural or inherited proclivities, which we are accustomed to sum up in the word "color," which is really the meaning of *caste*. (See Webster's Dictionary.) It is not mere pigment, only skin deep—this repelling quality. It is something beneath skin, which divides the races by lines that have never been passed, wholly independent of their volition. And why in the economy of nature, should it not be so? Men do neither gather grapes of thorns, nor figs of thistles.

Heaven knows that I sympa-

thize with the black man in all his aspirations for good. I would lend him a helping hand in the school of life. But he will have to learn the rudiments, as we did. I believe the negroes are the most docile, kindly of the races, under the tutelage of the white race. But I do not think it true philanthropy, or wise statesmanship to endeavor to advance them at the peril of the civilization of the white race.

But Congress, containing only a few Democrats, had determined to endow the negroes with the right of suffrage. The Fourteenth Article of Amendments to the Constitution of the United States was proposed as follows:

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section 2. Provides for the representation to be of the whole population, except where the right to vote is denied; then to be reduced in that proportion, unless denied for participation in rebellion, or other crime.

Section 3. Disqualifies a class of rebels from holding office, unless such disability shall be removed by Congress.

Section 4. Provides for its ratification by the States.

The first step required was to *compel* the ratification of this amendment by three-fourths of the States, which could not be done without some of the Southern States. So the act of Congress was passed entitled "An act to provide for the more efficient government" of the 'rebel states' over the President's *veto*, March the 2nd, 1867. By this act the 'rebel states' were divided into military districts, Arkansas and Mississippi composing the Fourth. To each district a military commander was required to be assigned by the President, with power to organize military commissions to try offenders against military orders and regulations.

It also provided, that when the people of any one State shall have formed a constitution framed by a convention of delegates elected by male citizens of whatever race, color or previous condition, and shall be ratified by a majority of such persons voting on the question of ratification, and Congress shall have approved the same, and the Legislature of such State, elected under said constitution, shall have adopted said Fourteenth Amendment, and the said amendment shall have become a part of the constitution of the United States, then, and not until then, said State shall be declared entitled to representation in Congress.

On the 23rd of March, 1867, a

supplementary bill was passed, authorizing the appointment of registrars by the commanding general and prescribing the form of oath to be administered to the elector before admitting him to register. That oath was in substance, that the elector was a citizen of lawful age, of a certain county and State and had not been disfranchised for participation in any rebellion or civil war against the United States, nor for felony: and that he had not taken an oath as a State officer or member of Congress, or as an officer of the United States, and afterwards engaged in insurrection or rebellion against the United States, or given aid or comfort to the enemies thereof; such oath to be administered by any registering officer.

At the passage of this act, the 'Rebel Legislature' of Arkansas was in session. The act would disqualify a majority of its members, and some of the 'loyal' members of the other departments of the State. The new Ship of State so recently launched with the sanction of Lincoln, seemed destined not to pass beyond the roadstead. The Legislature adopted the report and resolutions of the House Committee on Federal Relations, presented by its chairman, Mr. W. H. Brooks, a distinguished Confederate Colonel, who came to Arkansas from Detroit, Michigan, in 1859, and was elected from Sebastian county.

The resolutions show how cordially the affiliation had become between the different departments of the State government.

*Whereas*, the present government of the State of Arkansas was duly and properly organized under the proclamation of President Lincoln of December the 8th, 1863, and has been peaceably acquiesced in by all the people, and has remained and is now in full force and operation over all parts of the State, in all its departments, whereby life, liberty and property are fully and amply protected in the persons of all its inhabitants;

*And Whereas*, the greater majority of the people of the State are satisfied therewith, and desire no change, and the constitution of the State provides for its own amendment and no law has been passed calling a convention for its alteration;

*Be it resolved by the General Assembly of the State of Arkansas*, That the existing government of the State of Arkansas is hereby declared to be republican in form, in conformity with the constitution and constitutional laws of the United States, and as such is the true and proper government of the State—and of right ought to be recognized as a member of the Federal Union,—and entitled to its due representation in the Senate and House of Representatives of the United States, with all the rights and privileges of other States.

*Be it further Resolved*, That our United States Senators be instructed, and our Representatives in Congress (?) be requested to lay these resolutions before the President of the United States and Congress, and a copy be sent to each of the Governors of the several States of the Union, with the request that the same be presented to their several legislatures.

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It was a dignified but vain protest. It seemed fatuous to speak

of Senators and Representatives in Congress, since none had been admitted and the conditions upon which they were to be admitted, were set forth in the act of Congress, and the contingencies were too remote. Mr. Garland and Rev. Andrew Hunter were elected by the Legislature the two Senators in Congress, and 'went on;' but, I regret to say, soon 'returned,' not being admitted.

The minority report which was presented by Mr. Hackett, fully 'accepted the situation.' It was also lengthy and contained some 'assumptions' not warranted. I give the substance of the report of the minority committee as follows:

By an act of Congress, which became a law the second day of March, 1867, the present government of the State of Arkansas is declared provisional, and under the provisions of the act, it is probable that this Legislature is without a *quorum*, the undersigned respectfully recommend the appointment of a committee whose duty it shall be to ascertain what members of this Legislature are entitled to their seats; and, if upon that report it shall appear that there are members disqualified by the act, their seats be declared vacant, and an election under the provisions of said act be held; and that so far as the qualification of voters and the eligibility of candidates is concerned, and until such election, all business in this department be suspended.

The undersigned fully concede the power of Congress to pass said law, and are in favor of an early call for a convention for the purpose of organizing the State under the same. The people demand that this shall be

done; and if those who are ineligible to exercise any political privileges whatever, continue to exercise the functions of office, the people will be unsettled as to their natural (sic) rights, and may, and doubtless will, (negroes chiefly), by virtue of the inherent and inalienable right of every people (except former rebels), seek their safety and happiness in a constitutional (sic) and organized government, and proceed peaceably to form and establish a government in conformity with said act of Congress.

Those who voted in favor of the minority report in the House, were Messrs. Dickey, Farrelly, Hacket, Harper, Leming, McCollum, Wheeler and West.

In view of the act of Congress and the powers then asserted by it, the supporters of the minority report apparently took the more businesslike stand. The unseating of the 'rebel' members was inevitable, and that would practically destroy the General Assembly. But, upon principle, the supporters of the majority report were in the better attitude before the white people. In standing by their people, they undoubtedly displayed the truer philanthropy and patriotism. It took four years from that date, that is to the date of the determination of the "Brooks and Baxter War," to demonstrate that theirs was the truer policy and they the better politicians.

For the present, the government was declared 'provisional only,' and Governor Murphy was again a 'Provisional Governor,' and had

only to look across to the place of meeting of the Union convention, then also in session, to realize that his 'provisional' tenure was drawing to a close.

The Union State convention was in session for the purpose of organizing the Republican party upon the basis of negro suffrage. Col. James M. Johnson, of Madison County, was president. Among its ablest and most zealous members were—from Arkansas county, Jno. McClure; from Hempstead, D. P. Beldin, J. R. Montgomery; from Jefferson, Powell Clayton, John A. Williams, and Sam W. Malory; from Montgomery, J. W. Demby; from Prairie, T. M. Gibson; from Pulaski, Ben. F. Rice, T. D. W. Yonley, W. W. Willshire, J. L. Hodges, L. J. Barnes, W. S. Oliver, and James Hinds, John Peyton, etc. Rev. Joseph Brooks, living at Helena, is not in the list of delegates from Phillips, reported by the committee on credentials. After remaining in convention for several days, they adopted a platform and resolutions in favor of enfranchising the negroes and disfranchising the 'rebels' Many of them came to this State with or behind the army; a few were old citizens from the 'Mountains.'

The third and the fourth article of their platform will sufficiently show the animus and purpose of the convention.

3. That we recognize the power and right

of the National Government to determine the method and apply the means of reconstructing the rebel States, and of providing lawful governments for the same; and we do willingly abide by and heartily accept the measures adopted or which may hereafter be necessarily prescribed by Congress for a full, perfect and final reconstruction of said States, to the end that the State may be admitted to its wonted position in the Union and representation in Congress; that the liberty and rights of *every citizen* may be secured and sacredly guarded and protected under an *honest*, competent and loyal State government; that the *credit* of the State may be restored and economy in the public expenditures be *secured*; that the construction of railroads and other internal improvements so necessary to the prosperity of the State may be commenced and vigorously prosecuted; and that the peace, security and prosperity may be restored to the State and all people. We declare that we are in favor of immediate action under and in conformity to the acts of Congress, and we hereby tender to the Major-General commanding this district, our *heartly* support and co-operation in their honest and faithful execution.

4. That we denounce the guilty authors of the late rebellion who refuse to acquiesce in the necessary, legitimate and just results of their own folly and crime, and who are now counselling the people to continued opposition and resistance to the legitimate and lawful authority of the National Government, as enemies of the Union and all the dearest and best interests of the people, and they deserve the scorn of every honest citizen who desires to see law and order and peace and prosperity secured to the State.

The fourth article contained a denunciation of "disloyal newspapers and political demagogues, whose

purpose it was, as soon as representation in Congress is secured, to repudiate their compact with the National Government, disfranchise the recently enfranchised citizens and prohibit education of their children."

The platform contained several other sections, which I leave out, as they are in the same strain. A State central committee was appointed with extraordinary powers.

John Kirkwood, an old citizen of Batesville, then offered the following resolution, which was adopted:

*Resolved*, That Hon. Elisha Baxter, Gen. Albert W. Bishop and Col. James M. Johnson be requested to represent the interests of the loyal men of this State at Washington City whenever in the opinion of the State Central Committee, such interest may seem to require their presence, and that the State Central Committee be instructed to provide for making suitable compensation for the services of these gentlemen.

The convention adjourned *sine die*. Here were Chief Justice Yonley, Col. James M. Johnson and Adjutant-General Bishop—not to mention Judge Baxter, who was not in office—holding commissions aboard the sinking ship of the New State Government, giving her up as doomed. The affiliation of the departments had been complete, while it lasted, and gave promise of a harmonious future. But the aspirations of interested, false friends interfered to disrupt a union that augured so



well, and bring ruin upon a virtuous and happy household.

The full-pay Adjutant-General was not to be closed out by the new combination. He would wave his hyperian locks and display his 'mark of distinction' upon the avenues of the 'National' Capital,—whence he returned a Register in Bankruptcy.

Its crew was leaving and the hulk of the Lincoln-Murphy White-Man's Government was drifting out to sea to become a prize to the freebooters.

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THIRD PAPER.

"Say, why are you here? Why did you come?  
How long are you going to stay?  
Why don't you speak? You cannot be dumb!  
Say, when are you going away?"

—*Helen Granberry.*

Major-General Ord had, by the President, been appointed Commanding General of the Fourth Military District, with headquarters of the district at Vicksburg, Mississippi. He visited Little Rock with a glittering staff, where he was waited on by the 'committee of conference,' appointed by the Republican convention, to advise him in regard to the appointment of Registrars under the late acts of Congress, of which Jonas M. Tibbetts was chairman, and the 'Republican Central Committee,' of which B. F. Rice was chairman. These occurrences dispelled from all minds the idea that peace

had been permanently established, although two years had passed since the surrender of the rebel armies, and three years since the organization of the State government under the Lincoln proclamation.

And so the operations of the Lincoln-Murphy government had been practically delusive. It had been set aside by the acts of Congress for the reconstruction of the State upon a basis of enfranchisement of the negro, with liberty to the agents of reconstruction to disfranchise the whites who had participated in, or sympathized with, the rebellion. The sword was unsheathed in order to compel citizens, whether loyal or disloyal, to organize a State government which should adopt a constitution giving suffrage to the negro, when a legislature, under such constitution, should ratify the fourteenth article of amendments to the Constitution of the United States.

The amendment had already (June 6th, 1866) been proposed to the States by Congress (in which ten States were not represented), and, under the forms of the constitution, was required to be ratified by three-fourths of the States of the Union. It was a roundabout proceeding, through unconstitutional methods, to adopt a constitutional amendment which should deprive the States of their control of the power to regulate the elective franchise in the States.

It had been repeatedly decided by the Supreme Court of the United States, that the power to regulate the elective franchise belonged exclusively to the States. The Court further laid down the rule that "citizenship has no necessary connection with the franchise of voting, or eligibility to office, and does not of itself give the right to vote; nor does the want of it prevent a State from conferring the right of suffrage." I do not think that any leader in Congress affected to regard these proceedings as strictly 'constitutional.' They assumed that war still existed; that peace had not been permanently established, and that the maxim *Inter arma leges silent* alone applied. Yet they strenuously denied the application of the maxim equally applicable: *Arma in armatos sumere jura sinunt* (to take up arms against the armed is a lawful right), which lies at the root of the doctrine of self-defense. The general government possessed expressly delegated powers, among which was *not* included the right to regulate suffrage in the States, or to coerce a State.

All powers not delegated were "reserved to the States, respectively, *or to the people*"—whatever 'people' may mean in such connection. Its leaders could not justify their acts by any other argument than that which is called the last argument of kings:

"Where the word of a king is, there is power;  
And who may say unto him: What doest thou?"

Meanwhile impecunious strangers swarmed through the negro quarters of the city and cabins of plantations.

On the 19th of July, 1867, Congress passed another and the third in the series of reconstruction acts, still more clearly defining its purposes. I will give in full the following section of the act:

SECTION 5. *And be it further enacted* That the boards of registration provided for in the act entitled "An act supplementary to an act entitled 'An act to provide for the more efficient government of the rebel States,' passed March two, eighteen hundred and sixty-seven, and to facilitate restoration," passed March twenty-three, eighteen hundred and sixty-seven, shall have power, and it shall be their duty, before allowing the registration of any person, to ascertain, upon such facts or information as they can obtain, whether such person is entitled to be registered under said act, and the oath required by said act shall not be conclusive on such question, and no person shall be registered unless such board shall decide that he is entitled thereto; and such board shall also have power to examine, under oath (to be administered by any member of such board), any one touching the qualification of any person claiming registration; but in every case of refusal by the board to register an applicant, and in every case of striking his name from the list as hereinafter provided, the board shall make a note or memorandum, which shall be returned with the registration list to the commanding general of the district, setting forth the grounds of such refusal, or such striking from the list;

*Provided*, That no person shall be disqualified as member of any board of registration by reason of race or color."

Filled with dismay, leading citizens met to consult as to the course they should take, and advise their friends to take, in the formation of a new State government under the reconstruction acts of Congress. After full deliberation they issued the following address:

*"To the People of the State of Arkansas; or such as may be Entitled to Vote at the coming Election fixed by General Ord for the 5th day (first Tuesday) of November, A. D. 1867:*

"Each of us whose names appear in this paper, has received, from time to time, letters from various persons in the State, asking our opinions and advice as to the course to be pursued in the election above referred to. Upon consultation we have agreed upon this method of answering those letters, and in so doing we but give our opinions, and do not assume to direct any one, or to dictate to any one.

After a most careful and thorough consideration of the *Reconstruction Act* itself, with all the reasons for and against which we have heard or read, we regard reconstruction under that act as an impossibility. Some sort of restoration may be had under it, but a reconstruction such as will give our people equal rights with others, and such as will secure to our State and her citizens full constitutional rights, cannot be had under that measure. Any reconstruction short of this would be a cruel mockery, and would result, in the end, in the certain degradation, prostration and complete ruin of the State. As harsh and severe and as odious as military rule may be, we prefer it infinitely to what must, of neces-

sity, follow from any kind of *restoration* or *reconstruction* under that act.

"Therefore, a convention to bring about *such* a reconstruction, as this bill contemplates, is to be avoided as the worst of evils. And if the convention is not needed to effect national restoration, or national integrity, certainly it is not necessary for any merely local purposes. This is more particularly true when in its proceedings hundreds and thousands of our citizens are not permitted to even have a voice, but are altogether excluded from it, and besides are disfranchised, and branded as traitors and felons.

"We regard it, then, as a sacred duty on the part of those who claim this as *their home*, and who feel for the *pride, honor, and prosperity of the State*, to go to the polls and vote *against a convention*, and at the same time to vote for *cautious, prudent, wise, conservative* delegates, so that if a convention should be held, its proceedings will be controlled and directed with an assurance that the State will not be given up to destruction.

"These are the views we entertain on this most important question, and they are submitted with a full conviction and a perfect sense of the magnitude of the interests at stake.

"Respectfully, etc.

DANIEL RINGO,	W.E. WOODRUFF, Sen.,
F. A. TERRY,	SOL. F. CLARK,
Z. P. H. FARR,	CHAS. A. CARROLL,
WM. Q. PENNINGTON,	J. F. FAGAN,
S. C. FAULKNER,	R. C. NEWTON,
T. J. CHURCHILL,	GEO. C. WATKINS,
JNO. C. PEAY,	U. M. ROSE,
C. B. MOORE,	L. B. CUNNINGHAM,
WM. E. ASHLEY,	JOS. STILLWELL,
JNO. M. HARRELL,	E. H. ENGLISH,
A. H. GARLAND,	WM. A. CRAWFORD."

The *States* might *not* pass any bill of attainder or *ex-post facto* law, but (it was argued) Congress

*might.* The Constitution of the United States had not incorporated the 29th chapter of *Magna Charta* in its provisions; but those of the States *had*, as cited by Judge Yonley; and the common law was the rule of decisions of the courts of all the States except Louisiana.

The foregoing address did not attempt any argument of the legality of the reconstruction acts of Congress. President Johnson had exhausted the subject in returning them to Congress with his objections, — in the fulfilment, he claimed, of his oath of office. 'Congress,' of sixteen States, proceeded to pass them over his objections by the requisite *two thirds vote* (?), bound also to the fulfilment of a similar oath of office, and asked no justification. It merely trained its victorious guns against the prostrate South.

The newspaper established in Little Rock as the organ of the Republican party lately organized, and styled *The Republican*, edited by Capt. John G. Price, professed to be pleased with the address as above issued. That paper said:—"The Bourbons have issued an address which is eminently characteristic of their inability to learn anything, and will give comfort to the friends of restoration and good government. We will with the most disinterested purpose advise them to beware how they monkey with the buzz-saw."

The Registrars throughout the State were duly appointed in accordance with suggestions to the commanding general by the conference committee, which had been assigned that duty by the Republican Convention. The State of Arkansas was composed of three regions of country inhabited by those whose interests and occupations were, to a degree, as distinct as the physical subdivisions of the State. Similar divisions, geographical and social or commercial, are described as existing in the ancient republic of Athens.

These were distinguished as the Mountain, the Plain, and the Shore. 'The Mountain' was inhabited by small farmers, and a populous community of hardy but ingenuous people. 'The Plain' was formed of broad fertile lands, which were cultivated by opulent slave-holders. 'The Shore' was the seat of cities where wealth was gradually concentrating, and learning and arts were cultivated. A description of one of these regions and its people, would in no wise answer for a correct description of another. The Mountain has less sympathy with the people of the Plain and Shore in their political or social aspirations. The Registrars that were appointed with such unlimited discretion were carefully chosen with a view to their adaptability to these various localities. The negroes—to whose

voting no restraints were interposed by the acts of Congress, numbering about 200,000, which was one-fourth of the entire population of the State—inhabited, principally, the Plain and the shore. There was no trouble in registering them. The prospect of voting filled them with pleasure. They were for the first time aroused to a real appreciation of the significance of occurring events. Most of the slaves retained the names of the families in which they had lived. Some of these names were no less illustrious than those of Washington, Jackson, Livingston, Hamilton, etc.

While the Registrars were at work, under the pay of the United States, as required by the first order of the commanding general to complete the registration by the 26th of September, the freedmen chiefly thronged the offices of registration; the subject of registration forming the principal topic of conversation among them. You might hear on the streets or in the lanes of the plantations such dialogues as the following:—

“Mr. Washington, has you done registered yit?”

“O, yes, Mr. Jackson, I done registered a week ago—leastwise I went dar and give um my name, but may be I mought as well go agin.”

“Why certen'y. Go agin, go two or t'ree times. I went dar

four times. I was gwine to be sho dey got my name.”

“But I spose you can't vote but once?”

“I ain't concern' about dat; I want to vote one time, sho.”

At an office of registration in one of the mountain counties where there was a great rush of applicants for registration, and ropes were extended for some distance on each side of the entrance to secure admittance in regular order, a young white man, just become of age, applied to register. He was ordered to be admitted escorted by two negroes, each armed with a revolver, who marched him up between the ropes. On giving his name and age, his application was rejected, on the ground that although he had not participated in the rebellion, his father had been a Southern political leader; the suspected sympathies of the applicant demanded his rejection. He was marched back by his colored escort.

The Registrars were taken generally from the Union League, a secret organization which formed a compact body existing throughout the State, from which the body of the whites was excluded and to which the negroes were admitted upon the payment of a small initiation fee, and in the lodges of which they were encouraged to speak, and relate with excited imaginations the experiences of their oppressions, prior and subsequent

to their emancipation. Agents of the Freedmen's Bureau organized and directed the League.

Mr. James Hinds was a lawyer, living in the dwelling of Dr. C. Peyton, a distinguished Confederate surgeon, purchased at a tax sale made by Copperthwaite, United States Commissioner for the collection of direct taxes to the United States, which sale was subsequently, by Justice Miller, declared invalid. The United States courts exercised jurisdiction, as if Arkansas were a State duly represented in Congress.

Mr. Hinds practiced in the justices' courts; wore a long black coat, dark clothing generally, and white cravat, and was usually to be seen with a law book under his arm. With a triangular face, broad forehead and sharp protruding chin, smoothly shaved; thin lips, curving downward; an habitual smile, and mild blue eyes, he was seldom seen on the street, except when it was evident that he had tarried too long at the wine cup. I never ascertained whence he came to Little Rock, and never saw any one who was able fully to explain the mystery of his tragic fate. He was one of the candidates of his party for a seat in the proposed convention. No one, than he, had more influence over the colored people. He had them at his home, and treated them as his social equals. He was courteous to the whites who were

inclined to accept his overtures; and, negrophilist as he was, he was liberal to his opponents, and especially those who had been in active rebellion. Meeting Col. Newton on the street, he said:

"Col. Bob, I like a rebel who fought. I am a rebel myself; always was. I rebelled against the Constitution; I have been spitting on it ever since I understood it authorized the enslavement of my fellow man. I don't blame you, though, as you did not make the Constitution."

"You are very kind, Hinds," said the Colonel; "I appreciate your leniency, but the Constitution was a contract; the considerations which supported it were a compromise, and don't you think we were bound to observe it in honor of its framers?"

"No!" said Hinds, "it was adopted without reference to those who were chiefly concerned, and was a fraud as to them; and fraud vitiates from the beginning."

"Oh," said the Colonel, "but they had their legal representatives; they were wards; they were disabled from acting for themselves. I don't think they are any more competent now."

"Ah, Colonel, that is prejudice. Such prejudice exists in the minds of you rebels that the colored population cannot have justice done to them, and until we clothe them with the power of the ballot, I undertake to say, that justice

cannot be administered to them even in the courts."

"So you propose," said the Colonel, "to go to the opposite extreme, and give that people all the power, and reserve none for us rebels?"

"No, sir; we will do no such thing. We will adopt a constitution under which no man shall be disfranchised unless he disfranchises himself. All may vote, who will not interfere with the other's right to vote."

"Yes," replied the Colonel, "but there will be the bayonet behind the ballots of all, just as now."

"No, no," laughed Hinds, putting his arm around the Colonel's shoulder and leading him away; "under the constitution that we shall make, the ballot will be a weapon firmer set, and better than the bayonet—a weapon that

"Comes down as still  
As snowflakes fall upon the sod,  
But executes a free man's will,  
As lightning does the will of God."

Hinds was the lawyer of the colored litigants, and attended all their meetings, political and religious. He would say to the congregations crowding the colored churches upon occasions when, layman as he was, he would be invited to the pulpit:

"My colored brothers and sisters, I am a 'missionary.' I am one of those fellows who used to be called an 'abolition emissary.'

I am authorized to save souls by making the people free. I believe there is no hope of heaven for a slave, because he has committed the unpardonable sin in being a slave. This is the day of your jubilee; you vote for a convention, and vote for me, and I will give you a free ticket of admission to the heavenly city." Which would be responded to with shouts.

And the Rev. Joseph Brooks often followed Mr. Hinds in these exercises. He resided at Helena, to which place he went with Gen. Curtis, as chaplain of a colored regiment; was a candidate for the convention, and frequently visited Little Rock. He was a man of great size, had a large head, which was nearly bald, large features and sallow face, cleanly shaven. He would say, when Mr. Hinds would come down out of the pulpit, as he took his place behind the sacred desk:

"My Christian friends, *you* understand Brother Hinds. In a religious point of view he is not quite orthodox in what he says, but the spirit of his remarks is just, if rightly understood. He means that a voluntary slave may not enter the kingdom of heaven. But I will say, its streets are thronged with slaves, from the time of Javan down to Uncle Tom; and I can see that old slave, from Abraham's bosom talking kindly to the rich Lagree, explaining that the gulf which now separates them

is impassable, and that no advice will be sent to his kinsmen, but that they must act upon their own responsibility in the affairs of this life, and make reparation to those whom they have oppressed, by granting them equal rights with themselves."

If his allusions to Lagree were not understood, those to Abraham and the rich man, had been heard before.

Mr. Brooks had a fluent delivery, powerful voice, and energetic action. Such appeals invariably stirred the congregation to an uproar. "Bless Gods," went up from the men, and "hallelujahs," and shouts, from the women, who ended by singing—

"In the morning, in the morning by the  
bright light."

Messrs. Hinds and Brooks were elected from their respective counties to the constitutional convention. The convention was declared carried by order of the commanding general, in General Orders No. 43, Headquarters Fourth Military District, series of 1867, by the following vote: For Convention, 27,576; Against Convention, 13,558.

The convention commenced its sitting on Tuesday, January 7th, 1868, and after a little more than a month's deliberation declared the constitution adopted on February 11th, 1868, ready for submission to the people for their ratification,

and the election of officers under it on the 13th day of March, 1868.

Its President was Thomas Bowen, of Mt. Pleasant Iowa. Rev. Jos. Brooks was one of the Vice-Presidents, and John G. Price, Secretary.

The new constitution contained the following provision on the subject of the franchise:

SECTION 1. In all elections by the people the electors shall vote by ballot.

SECTION 2. Every male person born in the United States, and every male person who has been naturalized, or has legally declared his intentions to become a citizen of the United States, who is twenty-one years old or upwards, and who shall have resided in this State six months next preceeding the election, and who, at the time, is an actual resident of the county in which he offers to vote, except as hereinafter provided, shall be deemed an elector. *Provided*, no soldier, or sailor, or marine, in the military or naval service of the United States, shall acquire a residence by reason of being stationed on duty in this State.

SEC. 3. The following classes shall not be permitted to register or vote or hold offices, viz:

*First.* Those who, during the rebellion, took the oath of allegiance, or gave bonds for loyalty and good behavior to the United States government, and afterwards gave aid, comfort, or countenance, to those engaged in armed hostility to the government of the United States, either by becoming a soldier in the rebel army, or by entering the lines of said army, or adhering in any way to the cause of rebellion, or by accompanying any armed force belonging to the rebel army, or by furnishing supplies of any kind to the same.



*Second.* Those who are disqualified as electors, or from holding office in the State or States from which they came.

*Third.* Those persons who during the late rebellion violated the rules of civilized warfare.

*Fourth.* Those who may be disqualified by the proposed amendment to the Constitution of the United States, known as Article XIV., and those who have been disqualified from registering to vote for delegates to the convention to frame a constitution for the State of Arkansas, under the act of Congress entitled "An Act to provide for the more efficient government of the rebel States," passed by Congress March 2d, 1867, and the acts supplementary thereto. \* \* \* \*

*Provided,* That all persons included in the first, second, third, and fourth subdivisions of this section, who have openly advocated, or have voted for the reconstruction proposed by Congress, and accept the equality of all men before the law, shall be deemed qualified electors under this Constitution.

SEC. 5. All persons before registering or voting must take and subscribe the following oath: "I do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of the State of Arkansas; that I am not excluded from registering or voting by any of the clauses in the first, second, third, or fourth subdivisions of Article VIII. of the Constitution of the State of Arkansas; that I will never countenance or aid in the secession of this State from the United States; that I accept the civil and political equality of all men, and agree not to attempt to deprive any person or persons, on account of race, color, or previous conditions, of any political or civil right, privileges, or immunity, enjoyed by any other class of men; and, furthermore, that I will not in any way injure, countenance in others any attempt to injure,

any person, or persons, on account of past or present support of the government of the United States, the laws of the United States, or the principle of the political and civil equality of *all men*, or for affiliating with any political party."

On the 13th day of March, 1868, the people were to be called on again to vote upon the ratification or rejection of this constitution. The subject of the ratification of this constitution making radical changes, and, in view of the proposed constitutional amendment to perpetuate its measures, excited the deepest interest.

The old citizens of the State, without regard to former party affiliation, whether for or against the Union in the late conflict, were generally opposed to the radical measures of the proposed constitution. In response to a call issued by well-known leaders of different party complexions, residing at Little Rock, the convention of what was styled 'The Democratic Conservative Party of Arkansas,' met at Little Rock in January. It was largely attended, and represented the wealth and intelligence of the State. After full discussion, it was decided, despite the offer which it was well understood would be in the constitution itself, that all who voted in favor of it should be admitted to registration, *not* to vote for the constitution.

The convention, previous to its adjournment, appointed a State

Central Committee, composed as follows: Robt. A. Howard, Chairman, Little Rock; Wm. Byers, Batesville; J. S. Dunham, Van Buren; A. B. Williams, Washington; L. B. Nash, C. B. Moore, Arnold Syberg, F. A. Terry, and R. C. Newton; J. M. Harrell, Secretary, Little Rock.

The committee established the *Campaign Gazette* as its organ, a paper issued from the presses of the *Arkansas Gazette* whose printing office was in the control of those who had no sympathy with the movement. I will give here some paragraphs from the columns of the *Campaign Gazette*, edited by the committee, as samples of the arguments and positions taken by the organization it represented. In its leading article of January 10th, speaking of the Constitutional Convention then in session, it said:

"We attended the first opening of the Radical Menagerie at the 'old capitol' this morning. When we considered that only a few of the animals have ever been on exhibition before, and are characterized by insatiable rapacity, we were a little nervous on approaching the arena, and secured a place beyond danger in the gallery. We could not but regard the collection with the deepest interest, which, we must confess, partook more of terror than admiration. Dr. Nieuwentyt, in his treatise to demonstrate the reality of final causes has asked: Can it be chance that has inspired the gentle and useful animals with the disposition to live together in our fields, and prompts ferocious beasts to roam by themselves in unfrequented places? Why should

not flocks of tigers be led by the sound of the shepherd's fife? Why should not a colony of lions be seen frisking in our parks among the wild thyme and the dew, like the little animals celebrated by La Fontaine?"

In another article there occurred the following paragraph:—

"CIRCUMVENTING GOD."

"That popular reason in the United States, under recent strains upon it, should have given signs of some derangement, is not astonishing. No people ever were less prepared for the catastrophes of a war like that we have passed, following upon a generation of unequaled, *unappreciated*, peace and happiness. A subject of greater wonder is, that the 'sober second thought,' in which we have been bred to have an abiding faith, should foreshadow its return so soon! Already with growing composure we contemplate the future, and remember the past as a troubled dream—a dreadful delirium—from which we pray a perpetual deliverance.

"The organ of the Radicals at the Capital of Massachusetts—whence were loosed some of the fiercest gusts of the late passion-storm—cries out in the very pain of a similar return to reason, that defeat in the recent Northern elections has overtaken the party because, by attempting to make the negro the equal of the white man, it *tried to circumvent God*. And this is not the language of disappointment, or passionate exaggeration, but of truth,—in the point, force, and eloquence of truth—truth, 'and nothing more.'

"In undertaking to elevate the negro to a position of equality with the white race,—if it had undertaken no more, the radical party has plotted to circumvent God! That God's purpose is the contrary of this, is nowhere more plainly declared in his revelations, and the revelations of nature, which all may read and understand. The attractions and sympathy

which white men, in the most generous of impulses, formerly felt for the negro, is admirably explained by Horace Greely in his declaration that 'the negro in his bonds was stronger than his master, because of the principle of justice crucified in him' by his enslavement. As a slave, he was clothed too in the garb of an orderly propriety, and reflected the urbanity and refinement of his fortunate owner, and the effects of the patriarchal mode of life in which he was reared."

The *Fairfield* (Iowa) *Democrat*, of about that date, contained articles denouncing the Rev. Joseph Brooks in unmeasured terms. He had gone into the army as chaplain from that place, but as those articles merely made out what we knew him to be—a political preacher, an abolition fanatic, we were not much enlightened thereby. "These abolitionists," Mr. Lincoln once said, "are unhandy people to deal with, but their faces are set towards Zion."

The leaders in the convention had been Joseph Brooks and his colleagues from Philipps County, Wm. C. Gray—a dark mulatto, who had emigrated from some Northern State; John McClure, agent of the Freedmen's Bureau, of Arkansas County; and John R. Montgomery, Freedmen's Bureau agent, from Hempstead County. There were some able Conservatives in the convention. Robt. S. Gantt and W. F. Hicks, of Prairie County; J. N. Cypert, of White County; Bouldin Duvall, of Lawrence County; and George W.

Norman, of Ashley County. But their united voice made as little impression upon the course of the convention as the vetoes of the President had upon Congress.

Mr. McClure, who was a very well informed and brainy man, in the disguise of long locks and an immense beard, was supposed to assist in the conduct of the Republican organ at Little Rock. Its articles consisted in denunciation of the rebellion and rebels, and withering sarcasms at the expense of 'the Bourbons.' The Democratic Central Committee appointed speakers to make a canvass of the State against the constitution. The 'Union League' sent its ablest lecturers to the remotest corners of the negro districts. As there was but a short time in which to make the canvass, it was conducted with great vigor on both sides. One evening, when the city was in darkness from some failure in the supply of gas, I suddenly beheld the reflection of a great light upon the clouds in the eastern part of the city. This was in the direction of the plantations extending down the river. As the light increased I heard shouting. Without public notice that it had been projected, a torchlight procession of the negroes, from the plantations from below, entered the city. I should judge there were about three thousand torches. They wended through the principal streets of the city, and

excited the deepest interest, not to say alarm, in the breasts of the inhabitants. A refined and amiable lady, who stood near me on the steps from which we viewed it (the widow of the late Dr. Jor-

"Madam," I replied, "you speak lightly of it; but I regard it as more serious than you think." To me it was a very alarming spectacle—that long column of howling negroes, with their flaming



EX-GOV. POWELL CLAYTON.

dan, who had been the largest planter in the State), exclaimed in a vein of sarcastic humor:

"They had left us our lives; I suppose they now propose to put us to the torture."

torches. Riding slowly in front of them, in sharp silhouette, was James Hinds, the only white man to be seen with the procession. They ended their procession in front of the 'Anthony House,'

where it was understood that Powell Clayton and other orators were to address them.

Farther than as a delegate to the Union convention, Gen. Clayton had not taken any part hitherto in politics. He was understood to have been a pro-slavery Democrat in Kansas prior to the war; was an efficient officer in the Union Army, and rose to the rank of brigadier-general. He had married in Helena, Arkansas, and purchased the 'Willoughby Williams' plantation below Pine Bluff, where he and his brother resided. He was a man a little above the medium height, with light hair and mustache, with a graceful but haughty bearing. He was ambitious of place and power, to which he sacrificed all prejudices, and had accepted the Republican nomination for Governor. Standing on the balcony of the Anthony House, in the glare of the torches, he made a defiant speech, indicating that he threw his fortunes upon the success of the Republican party in Arkansas. Hinds, Brooks, and McClure stood near him, and the white people heard him from the windows of the hotel and the sidewalks. The indications seemed ominous of evil to the Conservative party and white people of the State. I pondered upon the evil which might be perpetrated by that horde of black men that blocked the street, shouting so wildly, under such a leader.

James Hinds stepped forward, and, with feeble voice, was beginning to speak, when the fire-bell suddenly rang out at the City Hall, one hundred yards west, and soon the engine and trucks, led by George Counts, came dashing madly through the excited mass. The negroes uttered a cry of rage, as if they understood it to be a false alarm made for disturbing their meeting; but the fire engine dashed madly on. Torches were beaten over the horses' heads, and a pistol shot was heard, and then another. The orators hastily retired from the balcony, except Clayton.

As if they had been provided for the occasion, hundreds of bunches of Chinese fire-crackers were touched off at that instant. They sounded like the reports of a thousand pistols and the tumult of a fearful riot; but no one was hurt. Before the popping had ceased, there was not a negro to be seen, except a woman known as 'Flying Jinnie,' who was hysterically cursing the rebels.

Fifty yards south of the hotel, there was a canal or ditch known as the 'Town Branch.' It contained all that was left of the procession, hiding under its banks and groping along its shallow bed to some place of safety.

Such was the termination of that opening grand procession of the campaign; and there was never any attempt at another.

On the 28th of February, Congress adopted an additional measure, which provided that the ratification or rejection of the constitution should be decided by a majority of the votes actually cast, and that at the time of voting upon the ratification of the constitution, the registered voters might vote also for representation in the Congress of the United States, and for all elective offices provided for by the said constitution.

General Ord had been relieved from the command of the Department. Major-General Alvan C. Gillem was appointed his successor.

Notification from the General of the Army at Washington, by telegram to Gen. Gillem, of the passage of this act was received *two days* after the election had *commenced*. It could not be made known to those who were not apprised of it *beforehand*. It was a 'scheme' between the carpet-baggers and Congress to elect State officers and representatives in Congress *without opposition*. Upon fair notice, citizen Unionists would have been candidates and largely supplanted them, as, although the former had control of the machinery, they would not have dared to use it openly in such a contest.

On April 23d, Gen. Gillem reported to the General of the Army that the election held in Arkansas, commencing March 13th, 1868,

upon the ratification of the constitution, showed 27,913 votes For the Constitution; 26,597 Against Constitution. Majority For Constitution, 1,316, as returned.

He made also an extended report in regard to the frauds claimed to have been perpetrated by both parties, but Congress paid no attention to aught but the reported result, and on June 8th, 1868, passed on an act reciting that the State of Arkansas had adopted a constitution, and the Legislature of the State (which had organized in the meantime) had duly ratified the amendment to the constitution of the United States known as Article XIV., and that the State was entitled and admitted to representation in Congress as one of the States of the Union upon the fundamental condition contained in said amendment. President Johnson returned said act with his objections, from which I take the following paragraphs in his message:

"If Arkansas is a State not in the Union, this bill does not admit it as a State into the Union. If, on the other hand, Arkansas is a State in the Union, no legislation is necessary to declare it entitled 'to representation in Congress as one of the States of the Union.' The Constitution already declares that 'each State shall have at least one representative;' that the Senate 'shall be composed of two senators from each State;' and that 'no State without its consent, shall be deprived of its equal suffrage in the Senate.' The bill declares that the State of Arkansas is entitled and

admitted to representation in Congress as one of the States of the Union, upon the following fundamental condition: That the constitution of Arkansas shall never be so amended or changed as to deprive any citizen or class of citizens of the United States of the right to vote who are entitled to vote by the constitution herein recognized, except as a punishment for such crimes as are now felonies at common law, whereof they shall have been duly convicted under the laws equally applicable to all the inhabitants of said State: *Provided*, That any alteration of said constitution, prospective in its effect, may be made in regard to the time and place of residence of voters.

"I have been unable to find in the constitution of the United States any warrant for the exercise of the authority thus claimed by Congress. In assuming the power to impose a 'fundamental condition' upon a State which has been duly 'admitted into the Union upon an equal footing with the original States in all respects whatever,' Congress asserts a right to enter a State as it may a Territory, and to regulate the highest prerogative of a free people—the elective franchise. This question is reserved by the constitution to the States themselves, and to concede to Congress the power to regulate this subject would be to reverse the fundamental principle of the republic, and to place it in the hands of the Federal Government, which is the creature of the States, and the sovereignty which justly belongs to the States or the people, the true source of all political power, by whom our federal system was created, and to whose will it is subordinate.

"It is well known that a very large portion of the electors in all the States, if not a large majority of all of them, do not believe in or accept the political equality of Indians, Mongolians, or Negroes, with the race to which they belong. If the voters in many of the

States of the North and West were required to take such an oath, as a test of their qualification, there is reason to believe that a majority of them would remain from the polls rather than comply with its degrading conditions. How far and to what extent this test oath prevented the registration of those who were qualified under the laws of Congress, it is not possible to know; but that such was its effect, at least sufficient to overcome the small and doubtful majority in favor of this constitution, there can be no reasonable doubt. Should the people of Arkansas, therefore, desiring to regulate the elective franchise so as to make it conform to the constitutions of a large proportion of the States of the North and West, modify the provisions referred to in the 'fundamental condition,' what is to be the consequence? Is it intended that a denial of representation shall follow? And, if so, may we not dread, at some future day, a recurrence of the troubles which have so long agitated the country? Would it not be the part of wisdom to take for our guide the Federal Constitution, rather than resort to measures which, looking only to the present, may in a few years renew, in an aggravated form, the strife and bitterness caused by legislation which has proved to be so ill-timed and unfortunate?

"ANDREW JOHNSON."

"WASHINGTON, D. C., June 20th, 1868."

The State officers declared to have been elected were—Governor, Powell Clayton; Lieutenant-Governor, James M. Johnson; Secretary of State, Robert J. T. White; Auditor of State, James R. Berry; Treasurer of State, Henry Page; Attorney-General, John R. Montgomery; Superintendent of Public Instruction, Thomas Smith; Associate Justices of Supreme Court, Lafayette

Gregg, John McClure, Thomas M. Bowen, and William M. Harrison.

Members of Congress elect—  
First District, Logan H. Roots;  
Second District, James Hinds;  
Third District, Thomas Boles.

United States Senators elect—  
Benjamin F. Rice, and Alexander McDonald.

Rev. Joseph Brooks was left out !

By the constitution just declared ratified, Article VII., Sections 3 and 5, the Governor was authorized to appoint the Chief Justice, and Judges of the 'inferior' Courts. He appointed W. W. Willshire Chief Justice; sixteen Circuit Judges, and a Chancellor. Few of the latter had ever practiced law, and all were subservient to his policy. What that policy proved to be will be shown in a subsequent paper. It verified the prescience of the authors of the Democratic-Conservative address which had proclaimed: "As harsh, and as severe, and as odious as military rule may be, we prefer it infinitely to what must of necessity follow from any kind of restoration or reconstruction under the acts of Congress."

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#### FOURTH PAPER.

"But now that statesmanship is—just a way  
To dodge the primal curse—to make it pay;  
Sure, office means a kind of patent drill  
To force an entrance to the People's till."

—James Russell Lowell.

The pretended election by

which the constitution was held to be ratified was a mockery. Not only had notice of the amendatory act, authorizing the election of all officers under it, come too late to be made known in time throughout a State without railroads or telegraph lines, but the three commissioners appointed in the schedule to supervise the election were vested with power to control it absolutely. They had the selection and control of all election officers; they might hold the election as many days as they should see fit; count the votes and reject any they might deem illegal; set aside the election, or 'correct' the result in any county or precinct, and decide the *right* to any office contested.

If it could have been submitted to an impartial tribunal, I doubt whether the instrument itself, thus adopted, could have been adjudged 'republican in form.' Instead of diffusing power among the people of cities and counties to regulate their internal or local affairs, it concentrated all power at the capital, and really left none to be exercised elsewhere. The newly enfranchised negroes had as little influence in the government as the mules upon the plantation.

Powell Clayton, who was installed Governor by means of these measures of undisguised fraud and force, was a resident of Pine Bluff, 35 years of age, engaged with his brother, John M.



Clayton, in planting near that place. He was born in 1833, on a farm in Delaware County, Pennsylvania. His father was of Quaker descent, and his mother English. At the age of 20 he was sent to the military academy of Captain Alden Partridge, at Bristol, in that State. From thence he went to Wilmington, Delaware, to study civil engineering. His father was a Whig in politics, but young Clayton, under the influences that surrounded him at the capital of the little banner State of Democracy, became a decided Democrat. In 1855 he removed to Leavenworth, Kansas Territory, at the beginning of the disturbances in that Territory, which grew into national importance in the years 1856 and 1857. I have no authority, beyond mere rumor, for stating that he took any part in those historic scenes. But, enterprising and ambitious, he must have cooperated with Capt. Martin's Kickapoo Rangers, or Atchison's Platte County Riflemen, in some of those campaigns, either in the one against Lawrence—then the headquarters of John Brown and Jim Lane—or in the skirmish at Hickory Point, where the conflict between the border combatants was prevented by the timely arrival of the United States troops ordered to the scene by Col. Sumner.

As a Democrat he would have favored the Lecompton Constitu-

tion, countenanced by the administration of President Buchanan, as against the Topeka Constitution—the movement in behalf of which President Pierce had pronounced 'revolutionary.'

Senator Stephen A. Douglas had advocated the repeal of the Missouri Compromise, which opened Kansas to the introduction of African slavery, and invited these fomenters. But he was led, from some cause, to oppose the Lecompton Constitution, and with the aid of four other Democrats in Congress, voted to defeat the passage of the bill for the admission of Kansas as a State under that constitution. His position may have contributed to aid him in defeating Mr. Lincoln for the Senate in 1858-9, but the effect was to transfer the Kansas embroilment to the country at large, and to disrupt the Democratic party.

These results precipitated the war between the States which followed. Clayton was endorsed by the Democrats of Leavenworth, who elected him City Engineer and Surveyor of that city.

Upon the storming of Sumter, he resigned his civic position and was elected a Lieutenant of infantry in the volunteer service of the Union, but was transferred to the 5th Kansas Cavalry, of which he became Colonel. With this command he entered Helena, Arkansas, in 1862, under Gen. Curtis,

and Little Rock under Gen. Steele in 1863. He was ordered thence to Pine Bluff, where he repulsed an attack by Confederate mounted men in greatly superior force under Gen. Marmaduke. This was heralded as a brilliant exploit, and secured Clayton's promotion to the rank of Brigadier-General. He does not appear to have distinguished himself in any other historic engagement. The surprise of Dockery's men was an every-day affair of no moment. Gen. Clayton was possessed of personal courage, beyond a doubt, and was not a man to avoid a personal encounter. He had begun his career amidst scenes of fraternal strife and bloodshed, and seems to have been at home in them.

The powers conferred upon the executive by the new constitution, and by the acts of the Legislature which met April 2, 1868, placed the control of all the machinery of government in the Executive. He was authorized to appoint the Chief Justice and all the judges of the inferior courts; Commissioner of Immigration and State Lands; Commissioner of Public Works and Internal Improvements; Boards of Registration to choose registrars and judges of election; Board of Trustees of the Institute for the Blind, and Deaf Mute Institute; Board of Trustees of the Industrial University; to

be President of Railroad Commission; to be Commissioner of Common School Fund; President of the Board of Public Printing; to designate 'official newspapers;' to issue State bonds to railroad companies; to appoint Prosecuting Attorneys; Assessors; all militia officers; negotiate for loan for purchase of arms; to remove County Superintendents of Common Schools; to cast up and 'arrange' the vote for each person voted for as Presidential Elector; to fill all vacancies in the offices of Secretary of State, Auditor, Treasurer, Attorney-General, Superintendent of Public Instruction, County Clerks, Sheriffs, and County Supervisors.

To make his power over all the departments complete, he was the political head and Commander of the Union League. In this capacity he could dictate to the pliant and helpless blacks, in each representative district, the persons to be elected by them as Senators and Representatives in the General Assembly, at all elections conducted by registrars and judges who were his creatures. The counties were gerrymandered to form representative districts in which the blacks would surely be in the majority.

He designated the justices of the peace and constables who were to be members of the boards of registration and presidents of such boards, and might remove any one

so appointed 'for sufficient cause.' The powers of these boards were extraordinary. Each registrar and board of review, while discharging its duties, was invested with and required to exercise the powers of a *circuit court*, and might issue process to sheriffs or constables, who were to receive fees for their services as for 'similar services in State cases.' No circuit court could exercise the power to issue any mandamus, or other process, to any registrar or board of review. This was to prevent interference by the courts in the conduct of 'elections,' which were merely *executive appointments*, through this expensive and demoralizing system.

Whether it was because Gov. Clayton was lead into temptation by the possession of these arbitrary powers, or was by nature of an arbitrary disposition, he soon demonstrated that there was no authority thus conferred upon him that he would hesitate to exercise. The sword was intended to cut one way, but it was not long before his political associates found that it was two-edged, and are on record in protests and proceedings accusing him of exceeding and abusing his powers.

The Governor was to be paid a salary of \$5,000, and to have the rental of a Governor's mansion at \$1,200 per year, payable quarterly out of any money in the treasury not otherwise appropriated. The

Secretary, Auditor, Treasurer, \$3,000 each; the Chief Justice, \$4,500; Associate Justices, \$4,000 each; the Circuit Judges, Chancellor, Attorney-General and Superintendent of Public Instruction, \$3,500 each.

The Metropolitan Hotel, then owned by Jonas Tibbetts, was headquarters of the Republican leaders. Judge Bowen boarded there with his beautiful wife, formerly Miss Thruston, of Van Buren, where Bowen first landed in Arkansas as an officer under Gen. Blunt. McClure, Rice and Bowen met there nightly, in Nat. Hill's room.

'Colonel' Hill was an ex-Confederate, who professed to advocate the reconstruction measures, and paid court to the new officials. They formed a lively coterie. Bowen talked cards. He had a 'system' which he claimed would break any faro-bank dealt 'on the square.' He had 'rules,' too, for playing draw-poker. But Judge McClure, proclaiming no theory, was the most successful adept at this great American game. Clayton was fond of the game, but did not play there. When a Senator afterwards, he played an equal hand with Blaine, Dorsey and Pinchbeck, who were fine players.

There is a great deal of human nature in poker. The game is a mimic battle of life, in which knowledge of human nature, prudence, calculation and nerve are

brought into play; and active minds delight in it.

Col. Hill had also systems and theories. He related startling instances of their successful application. But as his bank account did not seem to increase, his auditors refrained from prying into his secrets. McClure said that Hill was so 'visionary' in his talk, if another man were to report him dead, and Hill should come around in person to deny the report, McClure would be bound to believe the other fellow. McClure was the 'Touchstone' of these exiles in the forest of Arkansas. In spite of systems Rice and McClure, who did not profess to have any, demonstrated a practical superiority in the game, and rapidly exhausted the finances of their adversaries. The purses of all these doughty chevaliers of reconstruction were getting slender. Hence the nervous anxiety which is betrayed by the act of their legislature of July 9, 1868:

SECTION 2. That every officer of the State, city, county or township who is, or has been, employed in the collection of the public revenue shall be required by the judges of the County Court to make final settlement of all the moneys which have come into his hands, by virtue of his office, within thirty days after notice served on him to appear and make settlement, etc.

SEC. 3. Makes it the duty of the Grand Jury to indict any such officer for embezzlement in whose hands any balance due shall remain unpaid thirty days.

The assessors had all been appointed, and were on their rounds under the act of July 22, 1868:

SECTION 22. It shall be the duty of the Governor forthwith to appoint and commission some suitable person in each county in this State to the office of assessor, whose term of office shall continue until the general election in 1870, unless sooner removed by the Governor, etc.

The act of March 25, 1871, Sec. 38, made it the duty of the Governor to appoint assessors for the full term of four years, unless sooner removed by the Governor. And lest by any influence any assessor should be induced to place his valuation of taxable property too low, it was provided, in the former act:

SECTION 31. Each County Clerk shall, from time to time, correct any errors in the the name of the owner, in the *valuation*, description or quantity of any tract or lot contained in the assessment books of his county, but in no case shall he make any *reduction* from the valuation of any tract or lot of real property.

By Sec. 87 of the same act, he was declared entitled to *three per centum* on the amount of taxes levied on his assessment list, to be paid out of the county treasury. This was a commission which stimulated to high assessments. The Board of Equalization, composed of the same assessor and clerk, was forbidden to reduce them except in particular cases; the aggregate value to

be returned without reduction, with the additions made by the clerk.

By the act of March 28, of the same year, the county *assessor* was clothed with power, and it was made his duty, to attend the voting places in each election precinct, district and ward, and after five days' notice to add to the registration list of voters the names of such persons as *he* might find to be qualified voters, and to issue certificates to such electors, and to deliver copies of such registration to the judges of election. He was authorized also to appoint judges and clerks of election, and while discharging his duties to have the power of a *circuit court*! The Governor, upon satisfactory evidence furnished that the registration in any county had been fraudulent or illegal, might set the same aside and order a new registration.

The assessor was thus the object of the special care of the Legislature. He was the mere agent of the Governor, removable at the Governor's pleasure. Through this important agent it will be seen how taxes were increased to meet the demands of exactions, piled upon each other, until the revenues, at any increase, were insufficient to pay a tithe of the interest upon the debts created.

Under the Murphy government, from April 18, 1864, to October 1, 1867, the money expended for the

support of the State Government amounted to \$64,800 per annum, or \$194,400. The first two years and a half are accurately stated at \$64,800 from the records. The last year's expenditures from October 1, 1866, to October 1, 1867, are involved with expenses of reconstruction, and cannot be stated as positively, but as expenses of the State proper, were about the same. No moneys were paid on account of Democratic Senators elected, or messengers or attorneys employed on behalf of the State, as has been falsely rumored,

It was upon the organization of the State government under the constitution of 1868, that the flood-gates of official extravagance were opened. Mr. James R. Berry, 'elected' auditor on the ticket with Clayton, and who was auditor under Governor Murphy (his father-in-law), and 'elected' on the ticket with Baxter, stated on oath in his examination before the Congressional Committee, of which Hon. Luke E. Poland was chairman, as follows: *Question*—Was there any money in the treasury when Gov. Baxter took possession of the office in 1873? *Answer*—For general purposes, 'narry red.' *Q.*—At the time of the installation of Gov. Baxter, was not the State debt very much larger—both the funding and floating debt—than it was in 1868, when Gov. Clayton took possession? *A.*—Very largely increased.

The witness then presented the following table :

Year.	Taxable Property.	Amount Taxes Levied.	Total Expended as per Auditor's Warrants.
1868	\$ 68,609,716 00	\$ 341,979 37	.....\$ 1,805,137 98
1869	69,320,426 00	349,640 96	
1870	\$ 90,196,763 00	\$ 471,697 62	.....\$ 1,949,456 73
1871	93,600,819 00	487,319 00	
1872	\$ 101,803,945 00	\$ 401,636 66	.....\$ *2,529,686 91
1873	104,560,292 00	1,014,682 88	

\*This amount does not include \$200,000 in bonds, for pay of militia and general arrears.

The note appended to the table is that of the witness. The total expenditure is \$6,284 281.62, without including the \$200,000 for militia. In addition to the above expenditure, plans for issuing bonds were devised. Measures creating a public bonded debt were early begun. The "Act to aid in the construction of railroads," with its 'catchy' title, was the initial enterprise, and was ap-

proved by Gov. Clayton July 21, 1868. As passed, it was in violation of Art. VI., Sec. 10, of the new Constitution, which reads as follows: "The credit of the State or counties shall never be loaned for any purpose without the consent of the people thereof expressed through the ballot box."

The following are the salient sections of the act:

SECTION 1. The faith and credit of the State of Arkansas is hereby irrevocably pledged to the issue of the bonds of the State in the sum of one thousand dollars each, payable in thirty years from date, at *seven per cent. per annum*, in the sum of \$15,000 per mile for each railroad which has not received a land grant from the United States, and \$10,000 for each railroad which has received a land grant of the United States, on account of which said bonds shall be due and issuable.

SEC. 9. *Be it further enacted* that nothing herein shall be construed to prevent said board of railroad commissioners from granting the State-aid herein contemplated to the *whole* or any *part* of any railroad in this State which may now be *unfinished*, or in process of construction.

The last section provides for submitting the *act*, at the *next election*, to vote of the people by ballots, simply "For" or "Against" railroads. If there should be a majority of the votes "For Railroads," the act should 'immediately become operative.'

Under this act, which was voted upon by those allowed to register and vote on Tuesday succeeding the first Monday in November, 1868, and declared ratified, there

were issued to the following railroads and projected railroads the sums annexed, bearing 7 per cent. interest:

Little Rock & Ft. Smith.....	\$1,000,000
Memphis & Little Rock ....	1,200,000
Miss., Ouachita & Red River.....	600,000
Little Rock, P. B. & N. O.....	1,200,000
Arkansas Central.....	1,350,000

The manner of issuing these bonds will be illustrated by an injunction suit which was instituted in the course of issuing the bonds to the Memphis & Little Rock Railroad Company. The Secretary of State, R. J. T. White, was engaged in his office in countersigning the bonds, then ordered to be issued to that road—about \$800,000. The bonds were beautifully engraved and illuminated. The company claimed to have eighty miles constructed—forty-five miles from Little Rock to De Vall's Bluff, on White River, and thirty-five miles from Madison, on the St. Francis River, to the Mississippi River, opposite Memphis. The latter section had been hastily constructed through the bottoms, so as to afford transportation in 1861, but had been since then unused. The Secretary was contemplating the pile of paper and musing upon the vast sum that he was helping to create, when Montgomery, known by the soubriquet of "Pigeon Toe," then Attorney-General, came stumbling into the office.

"Making money, White, right along!" he remarked, by way of greeting.

"Yes," returned the Secretary, "and very little will it benefit me, only \$1 per bond for my name and the seal of the State."

"That's pretty good; about \$800," replied Montgomery encouragingly.

"Montgomery," said the Secretary, "these bonds will bring seventy-five per cent. easy. What a god-send for that Memphis crowd! They are nearly starved out. Why, their mouths are watering; they could not bear to be disappointed."

"Why should they?" asked the Attorney-General. "Hasn't the issue been ordered?"

"Yes," answered White; "but the 'law's delay,' you know."

"The law's delay?" gasped Montgomery, not comprehending what the Secretary meant.

White stared at Montgomery, and merely muttered:

"I was just thinking the act might be unconstitutional, or rather hastily passed, without the proper submission to the popular vote!"

"I begin to see a *pint* myself," said Montgomery, who affected the country dialect, "and by G—d, I think a bill *will* reach it, and the Chief Justice, or any of his associate justices, has jurisdiction to grant an original injunction! The issue of these bonds will do the State irreparable injury, White,

and it is my duty, as her law officer, to prevent it!"

Montgomery worked all night, and took some counsel, and the next morning at the earliest moment, with only an hour's notice to the superintendent of the road, presented his petition in the name of the State, to restrain the issuance of the bonds.

But while he was arguing his motion, the superintendent *saw* the Secretary, overcame his qualms as to the issuance of a great part of the bonds, and without waiting to contest the injunction, hastened out on his road with the bonds as far as De Valls Bluff, on the way to Memphis.

The restraining order was issued, and with it, the first time in the history of the State, the old writ of *ne exeat regno* for the superintendent, who, having to wait for a boat, was duly served, and came back with the officer.

After several days argument of counsel, however, the injunction was dissolved, and the railroad company got a *part* of the bonds at any rate.

The Little Rock, Pine Bluff & New Orleans Railroad Company, mentioned above as getting bonds, received of the railroad aid-bonds \$750,000; 'levee bonds,' \$320,000; Chicot County bonds, \$1,000. Total, \$1,071,000.

The levee bonds were issued under the act of March 16, 1869, and an act supplemental thereto

of April 12, 1869, amended by the act of March 23, 1871. It provided that upon application to the County Court of the county in which the lands lay to be benefited by the draining or ditching, or protection from overflow, of a majority of the owners of the land granted by the court, the Commissioner of Public Works, if he deemed expedient after certain surveys and estimates, was authorized to contract for levees or ditches, after due advertisement. Upon his certificate that any contract had been completed, the Auditor of the State was required to issue his warrants, to be denominated "Arkansas State Levee Bonds," in sums of not less than \$50, nor more than \$1,000 each, to such contractor. They were payable in thirty years, with interest at seven per cent., attached as coupons to said bonds. On becoming due and payable, said interest to be *levied upon* and collected from the *owners of the land* benefited by the building of any levees, or the making of any ditches, the issue of said bonds being limited to \$3,000,000. There was no pretense that these bonds were issued by the consent of the voters through the ballot box.

Other bonds were caused to be issued by the party in power, as follows:

To pay 'loyalists' for supplies furnished militia . . . . .	\$ 400,000
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State Funding Bonds issued by the Governor.....	300,000
Pulaski County Bonds.....	1,000,000
Chicot County Bonds.....	400,000
Clark County Bonds.....	300,000
Sebastian County Bonds.....	100,000
Conway County Bonds.....	.....
Hot Springs County Bonds.....	33,000

Other counties had outstanding scrip issued in large amounts, which were bought up by speculators. The appropriation bill of April 12, 1869, contains, among many other extravagant appropriations, the following :

To Merchants' National Bank, money loaned to buy arms (for Clayton's militia).....	\$12,000
To Herman, Booker & Co., for arms sold State.....	6,000
Organizing Clayton's State Guard and Militia.....	10,000
To pay for Public Printing " <i>a sufficient amount</i> ".....	.....

Judge McClure was president of the publishing company which was paid several hundred thousand dollars for public printing during Republican rule, with consent of Clayton, President Board of Public Printing.

One of the most shameless acts for depleting the treasury and creating a vast debt for posterity, without any earthly reason in morals or propriety, was the funding of the Holford claim for \$1,370,000. The funding of this supposed debt was authorized by the act of April 6, 1869, entitled, "An act for the funding of the

public debt of the State," and approved by Gov. Clayton, which was as follows:

SECTION 9. The Governor is hereby authorized and required to fund the debt of the State, consisting of bonds issued by the State to the Real Estate Bank, and State Bank, by issuing new bonds of the State in lieu of the bonds issued to said Real Estate and State banks.

They were payable in thirty years, and of \$1,000 each, bearing interest at six per cent. per annum from date. The amount of the new bonds was to be the amount of the old bonds, with *accrued interest* thereon.

There was no actual indebtedness of the State as a basis for these funding bonds. The Real Estate Bank was a private bank to which the State had issued July 1, 1838, its bonds, upon land mortgages to the State, for \$500,000, stipulating on the face of them that the bonds should *not be sold for less than their face value*. The bank's agent pledged them to the American Banking and Trust Company, in violation of this stipulation, for \$120,000, for his own private purposes. The American Banking and Trust Company soon failed, owing James Holford & Bros., of London, \$250,000. The Holfords obtained possession of these bonds, and sought to make their debt of the American Banking and Trust Company by suing the State of Arkansas for \$250,000, and instituted two suits *at law*—

one in New York and one in Arkansas. The judgment of the New York court went beyond its jurisdiction; that brought in Arkansas was carried to the Supreme Court of Arkansas, which decided that, while the plaintiffs might be entitled, *in equity*, to \$121,000 and legal interest, they had no ground of action against the State *at law*. But Gov. Clayton approved the act which funded these worthless bonds, with thirty years accrued interest, to the amount of \$1,370,000. There were some prominent Democrats who, as lobbyists, lent their counsels and influence to this measure.

Not only were the foregoing interest-bearing evidences of debt, which the property of the citizens was taken to pay, authorized to be issued, but the act of March 20, 1871, empowered the Governor to issue still others; "to supply deficits in the expenses of the State, and to *sustain the State credit* as follows:

SECTION 1. The Governor of the State is hereby authorized to issue three hundred interest-bearing bonds of the denomination of \$1,000 each, with coupons attached, said bonds to bear interest at the rate of seven per cent. per annum, payable semi-annually in the City of New York, principal to be paid in ten years after date of issue; *provided*, said bonds shall only be issued and disposed of to raise money to pay deficits in the State Treasury arising as interest on the State debt now funded. *And, provided further*, that the bonds provided for in this act shall not be dis-

posed of at less than eighty per cent. of their face value.

Gov. Clayton issued these bonds for the full amount.

With all the money collected as taxes upon an assessment of property which the assessor and clerk and boards of equalization were rewarded to place at such a figure as made the owners pay taxes amounting to the double rental value of their own houses, there were deficits in the State Treasury which had to be supplied by borrowing money on new bonds at seven per cent.

A French financier of modern times is represented as saying that the art of obtaining money from the people for paying public expenditures, is to proceed so that in plucking the goose you shall not make her cry. But the carpet-bag statesmen, looking to their momentary gain, regardless of her cries, proceeded to kill her for her golden eggs. Suffering and discontent were universal. The officials only were prosperous. They were unable to resist the usual inclination to make a display of their sudden acquisitions, amidst the general poverty and gloom. Hodges and Weeks, in charge of the State Penitentiary, under a contract that entitled them to draw large sums from the State Treasury, built themselves palatial mansions. They removed the slate roof from the Penitentiary buildings in causing some altera-

tions which they saw fit to make, and transferred it to the roofs of their own residences. Senator McDonald and the sheriff and collector of Pulaski County, Col. William S. Oliver, built fine houses in the same locality—a high ridge overlooking the Arkansas River. The river men called it “Robbers’ Roost.” Gov. Clayton purchased and occupied subsequently the house and grounds of Col. Oliver.

The industries of the country upon which this partial prosperity was based began to suffer a general decline. The cotton crops fell short. The freedmen, who alone could be employed to work them, because white laborers would not work with their families in proximity to them, had become disorderly and unmanageable. The mules furnished them by the landowners were ridden down and the provender exhausted, in attending political celebrations and meetings of the Union League, at which they were inspired to distrust their white landlords and look to a division of their property among themselves. They were plainly told that the policy of oppressive taxation they witnessed meant *confiscation*. The freedmen became insolent, and, in many instances, threatening to a degree that caused their white neighbors anxiety for their personal safety.

Jack Agery, coal-black orator and humorist, said: “A man dat has not got nothin’, always runs

to a fire. I ain’t never seen one ov sich weep at de confusion dey seen dere at dat fire.”

Cattle and hogs were killed in such numbers, and with such impunity that planters abandoned the attempt to raise them. Assaults by negroes upon white women became alarmingly frequent. Encouraged by the organization of ‘leagues’ in every neighborhood, and shielded by their partisan officials, it was futile to attempt to deter them by legal proceedings. The whites in the neighborhood saw the necessity of organizing for self protection. This began in localities at first, as a sort of *patrol*, independent of any general plan. Knowing the innate superstition of the blacks—their belief in evil spirits and spectres that came out of their graves at night—and wishing to frighten them into desisting from their night-raiding, the patrol carried white dominoes and paper caps, in which they appeared in the thickets at night, at such times as were deemed opportune, and created great consternation, not only among the negroes, but their white leaders, who saw their influence declining under this new method of ‘intimidation.’ No one was more deeply agitated by these demonstrations than the Governor. Thoughtless writers invented stories of mysterious processions of ghostly riders, and published them embellished with cuts of

skulls and cross-bones, and gruesome warnings, signed "K.K.K.," and gave accounts of fabulous organizations of the "Ku-Klux Klan."

Governor Clayton took to himself credit for 'executive ability,' rather than legislative. He who governs firmly without violating the laws, without friction or unnecessary violence, may claim to be endowed with executive ability. The best machinist is he whose engine is run the most smoothly. The best government is that which is felt, not seen. It was this quality in our government which De Tocqueville most admired—the absence, everywhere, of soldiers and badges of authority. It is irony to call that man an able 'executive' who overcomes opposition through lawless measures of annihilation. "He made a solitude and called it peace," is said of an ancient tyrant. M. Guillotin invented an automatic 'executive.' It never occurred to Clayton that he was just such an 'executive' as this fatal machine set up by Robespierre, Danton and St. Just; or that eventually, as did they, his party would look through the 'little window,' and his own executive head 'sneeze in the sack.'

There were those of his own party who had, in some way, taken deep umbrage at the Governor and his State-house satellites. James Hinds, member elect to Congress, made no concealment

of his disaffection. One day, as he walked along Markham street, he said to me, pointing to the State house: "I am going to the country in a few days, and I devote that establishment to the infernal gods." Hinds indulged in quasi-heroics, and was nothing if not 'classical.' "Yes," said he, "those fellows have builded upon my foundations; they have reaped what I have sown. They plant a little whirlwind for me now, and they shall reap a cyclone. I am a cyclone producer, Raynor, and they know it!" Hinds and the Rev. Jos. Brooks, as a matter of fact, did go to the country in a few days. Somewhere on White River they were fired upon from ambush. Hinds was killed instantly. Brooks was severely wounded and repeatedly fired upon, saving himself by the speed of his horse. This atrocious murder was proclaimed at once from the State house, to be the deed of the Ku-Klux Klan. Disown it as much as the Democracy might by resolutions and editorial disavowals and denunciations, it was religiously ascribed throughout the land and in the halls of the Congress, where the murdered man was entitled to a seat, as the diabolical work of the "Ku-Klux Democracy." Hinds' body lay in state in Washington, while the North, without regard to party, shuddered at the cruel *political assassination*. No one was ever

arrested or punished for the dastardly deed. I have never heard that any one was suspected, beyond some unheeded assertions that Hinds was killed by men of his own party. Gen. Thomas C. Hindman, the ex-Confederate general, an ex-member of Congress, distinguished in the political history of the State, was shot at night through the window of his residence, at Helena, about the same time. His assassination is shrouded in equal mystery as to the identity of the perpetrator and the motive. Gen. Hindman was an ardent Democrat, a man of splendid attainments and ability. He was a most efficient political leader, and, at the time of his death, was actively organizing the negroes along the Mississippi River for coöperation with the Democratic party.

The Democratic leaders greatly deplored these disastrous events; the assassination of Hinds being particularly injurious to the cause of Democracy throughout the United States. The body of the Congressman-elect was taken to Washington, where it lay in state in the hall of Representatives. Expressions of indignation filled the newspapers at the deep damnation of his taking off—and just upon the eve of a Presidential election. Grant and Colfax had been nominated by the Republican National Convention, and Seymour and Blair by Democrats,

for the offices of President and Vice-President. The respective tickets for Arkansas were as follows:

Republican Ticket—For President, Gen. Ulysses S. Grant, of Illinois; for Vice-President, Schuyler Colfax, of Indiana. For Electors at Large: Wm. H. Grey, of Phillips County; O. A. Hadley, of Pulaski County. For District Electors: 1st District, J. Pat Farrelly; 2d District, O. P. Snyder; 3d District, M. L. Stevenson.

Democratic Ticket—For President, Horatio Seymour, of New York; for Vice-President, Francis P. Blair, Jr., of Missouri. For Electors at Large: Robert S. Gantt, of Pulaski County; John R. Fellows, of Ouachita County. For District Electors: 1st District, W. W. Drummond; 2d District, Met. L. Jones; 3d District, W. D. Jacoway.

Before putting out the Democratic ticket for President and Vice-President, the Democratic State Central Committee, after due deliberation, resolved to counsel the members of its party to take the oath prescribed by the Constitution lately declared in force, and register and vote at this election. It would otherwise have been absurd to nominate candidates for Democratic electors, with the entire party disfranchised on account of its previous vote *against* the Constitution. The committee issued its address, call-

ing upon Democrats to register for the coming election. The oath was exceedingly distasteful, and was, to some extent, misconstrued. Without a party vote, however, the Democracy could never wield a party influence. However serious the dissensions in Republican ranks upon a division into factions of that party, there would be no vote outside of the Republican party to go to for assistance. There were no inducements for disaffected Republicans to make overtures for Democratic votes, where there would be *no* Democratic votes. Citizens must register or retire from participation in their State government. But the proposition of the committee met with formidable opposition. Some of the ablest and most respected members of the party rejected it. Gen. Albert Pike, at that time editor of the time-honored *Memphis Appeal*, denounced the recommendation in the strongest terms. Commenting upon a speech of the secretary of the committee, which was in earnest support of the committee's address in the 5th September issue of the *Appeal*, he wrote:

"Some gentlemen, and among the rest Col. J. M. Harrell, of Little Rock, are laying up for themselves wrath against the day of wrath.

\* \* \* \* \*

"It was Mr. Jefferson, we believe, who wished that a sea of fire separated America from Europe, that American republicanism might not be corrupted by European examples, nor

the precedents of despotism become authority on this side of the Atlantic. If radicalism is to rule the North; if all the isms of a corrupted and putrid puritanism are to legislate for the South in Congress, and the South is to be the bastard brother of the North, setting below the salt and eating the bread of degradation, do you not wish for Southern independence? Do you not wish that, to keep out of the South the idolatrous, abominations—political and social—of the Northern States, there were a line between us and them which the devilish emissaries of mischief and malevolence could not cross? Or, are you so much in shame and dishonor as to wish, out of your intense love for a Union you lately detested, and a flag that only a little while ago you said was a symbol of oppression, as to be willing that the South should be forever tied, limb to limb and bosom to bosom, to the North, as the living and the dead were tied together by Mezentius?

"O speak with bated breath and crook the pregnant hinges of the knee before your conquerors, who never conquered you in verity until now! Swear oaths that you do not mean to keep, and advise a whole people to commit rank and damnable perjury! It will *be profitable*. There is no God, or if there is, He has forgotten how to punish crime. Down on your knees, and with the edge of the scimitar on your neck, swear an oath which to keep or break is equally shameful and dishonoring to one who remembers that his ancestors were freemen!

\* \* \* \* \*

"The man who advises the people to such course will, indeed, 'build his coffin' and find death a relief from the ignominy that will overwhelm all such counselors.

"I will be a swift witness against the false swearers, saith the Lord of Hosts."

"They have spoken words swearing falsely in making a covenant: thus judgment springeth up as hemlock in the furrows of the field."

"If the people of Arkansas permit themselves to be led into the great sin and shame to which they are tempted, they will cheat themselves and afterwards find that no permanent profit or advantage can be reaped by a people from an act for which its own conscience will in vain labor to find a sufficient cause. That which is right, and just, and true, is only profitable, in the end, to men or nations."

Gen. Pike had been an officer in command of Arkansas cavalry in the Mexican war, a Confederate general, a lawyer of splendid ability, a poet of acknowledged genius, since his "Hymns to the Gods" were published in Blackwood's Edinburgh Magazine, contemporaneously with Tennyson's "Locksley Hall," than which they are scarcely less inspired and finished, and his paper, the famous Memphis *Appeal*, circulated widely among the steadfast Democracy of Arkansas. His article created a sensation. It was in unreserved repudiation of the policy which, after anxious days of consideration, the Democratic Central Committee had resolved to adopt. They should not be expected to countermand their policy. Their secretary undertook to answer Gen. Pike's declaration of independence. After some references to the General's 'recalcitrations,' political and military, in bygone days, the answer to his article upon the point in controversy, was as follows:

But what has the committee done—what

have I done, to provoke the heated tirade of the editor of the *Appeal* which professes to be a Democratic journal? The committee appointed by a State convention of the Democracy of Arkansas found it necessary, after the adjournment of the New York convention, to consider the course of policy they felt called upon to indicate to the party in Arkansas. It being impossible for them to consult Gen. Pike, in Tennessee, for want of time and opportunity, they determined, after a patient discussion of the questions involved, to recommend to all who could do so, to qualify, register and vote under existing laws. These laws prescribe, as a condition of suffrage, an oath to accept the political equality of all men, and to promise not to deprive 'any person' on account of race, of any privilege enjoyed by any other class of men. The New York platform declares that the authority for the enforcement of these laws had no warrant in the Constitution, and are void. All men recognize them as an unlawful artifice, if only a temporary one, for preserving to the radical party at Washington the control of the Government, and to its emissaries in the States, North and South, the power of enriching themselves, by a wholesale system of taxation and spoliation, which, in the Southern States, amounts to the ruin of every material interest. In the meantime the elections are at hand upon which the perpetuation or failure of this unholy usurpation is to turn. By taking the oath in Arkansas the scheme might be defeated, and by no other means, and her five electoral votes contributed to secure the desired result. This is the high inducement, and no sacrifice is demanded, except as to feelings of taste, or upon mere questions of deportment. 'The equality of all men' is sustained just as well, and *better*, if no practical means are taken to resist the power by which the usurpers are to be sustained, whether we accept it or not. Nor are we any the more likely to make any forcible or otherwise un-

lawful attempt to deprive 'any person' of a privilege enjoyed by other persons, whether we *promise* or *not*. The State Constitution which we swear to support at the time of taking the oath, to say nothing of the allegiance to the Constitution of the United States, which the oath implies, provides in the very first section that the people possess the right which in all free constitutions is declared to be inalienable, "to *alter*, or reform it, whenever the public good may require it."

There is no man who is not disfranchised by the military bills (and *they*, having performed their office in the formation of the present Constitution of State, are *functus officio* in Arkansas, and dead), who cannot conscientiously take the oath required, under the circumstances. No option is left him, if he would participate in the direction of the Government over him and exercise his right as a citizen in aiding to alter bad laws, when found to be such, and reforming abuses when they ought no longer to be borne.

Is not this wiser than to sit sulking in the pride of prejudice and be plundered, when no other hope of relief presents itself; when the Democracy of the Northern States call on us to perform the duty we took upon ourselves when we entered into the New York Convention the 4th of last July? The ungracious pastor in Tennessee quotes scripture and reads lessons of morality from the fathers of the Inquisition to the Democracy of Arkansas,

Whilst, like a puffed and reckless libertine,  
Himself the primrose path of dalliance leads,  
And reck's not his own rede."

The people in Arkansas are in a far greater extremity than *he*, when obtaining from President Johnson his special *pardon*, he took the oath of allegiance a year or two ago, forgetting which he now asks us if we do not wish for Southern independence! I will make him no other answer than is contained in the familiar replies of Rome's old Cato, and Lucius, refusing their swords to Sempronius, who

proclaimed: "My voice is *still for war!*" Gen. Pike may seek to wear as gracefully as he may the classic drapery of the great moralists, Descartes, Pascal, La Bruyere. He addresses us in the language of Condillac, who said, "All metaphysicians have bewildered themselves in enchanted worlds. I alone have discovered truth. My science is of the highest, utility. I am going to explain to you the nature of conscience, of attention, of recollection." But we, the people of Arkansas, ask to be spared the teaching which has not been practiced by him who offers it. Rather let us wish the poet-sage who once lived amongst and was honored by us, the enjoyment of that pleasure extolled by Lucretius: "It is a pleasant thing from the shore to behold the dangers of another upon the mighty ocean, when the winds are lashing the main; since nothing is more delightful than to occupy the elevated temples of the wise, well fortified by tranquil learning, whence you may be able to look down upon others, and see them straying in search of the path of life."

It would surely afford much purer enjoyment than entering uncertain contests uninvited by those who may be sought to be benefited, to be provoked by their want of appreciation, and injure them, with the stings of writings and speeches which remind us of those of the bees in Virgil. "*Animasque in vulnere ponunt.*"

The people, regardless of these criticisms, registered with great unanimity, and were ready to vote at the Presidential election on Tuesday, the 3d day of November, 1868, when the following letter was found in the hands of members of the Legislature:

[Copy of Letter Written to All the Members of the Legislature.]

NOVEMBER 1, 1868.

Dear Sir:—I am led to believe that it will be absolutely necessary to proclaim martial



law in several counties in the State. These counties are now in a state of insurrection, and the civil authorities in them are utterly powerless to preserve order and protect the lives of the citizens. Many officers and citizens in these counties have been assassinated or driven away, and a reign of terror is now existing in them. I have consulted with the State officers and the representative men in the city, and they unanimously agree with me that this is the only course that can be pursued, that will put an end to these existing evils, and I now communicate with you for the purpose of obtaining your views upon the subject, and your coöperation and assistance in restoring the civil authority and bringing to punishment the violators of the public peace.

I urge upon you the necessity of coming here soon after the election, as it is believed that a concerted effort will be made to so diminish the number of the members of the Legislature as to prevent there being a quorum. If your views coincide with mine as to the expediency and necessity of this course, I trust you will use all your influence to assist in the organization of the State Guards. The success of this movement depends very greatly upon the promptness and dispatch with which it is carried out. A decided and prompt effort will, in my opinion, settle the difficulty within thirty days.

Awaiting your reply, I am very respectfully  
yours, etc.,

POWELL CLAYTON,  
Governor of Arkansas.

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NOTE.—The author did not intend to leave it to be inferred that the money thus to be obtained upon pledges of the property and industries of the people was to be expended without benefit to the State by the new officials, and only for their personal ends. The Governor and his coterie are to be credited with the purpose of favoring improvements for the promotion of the commercial and industrial interests of the

State, at the same time that they were contributing to their private fortunes.

There was then one line of railroad, only, in the State, running from Little Rock to DeVall's Bluff, on White River. This was soon extended to Memphis, by assistance of the Railroad Aid Bonds. The line of railway, projected by Stephen A. Douglas, from Cairo on the Mississippi, to Fulton on Red River, with a branch from Little Rock up the Valley of the Arkansas to Fort Smith, endowed with a grant of government land, of alternate sections twenty miles on each side of the main line and the branch, was begun; and the value of this magnificent grant was utilized through these financial operations. They facilitated the transportation of produce; have built up some small towns, and added to the population of Little Rock at the rate of about one thousand inhabitants yearly. An asylum for the blind was erected at considerable cost.

Much of the money raised upon the securities may have gone into the hands of private promoters. It was the era of *credit mobilier*, which destroyed Colfax and imperiled Garfield. The Governor issued the bonds; some of them went into the hands of Josiah Caldwell and Warren Fisher, who charged Speaker Blaine with getting some of them. But the work done was valuable, and under Democratic administrations has added \$15,000,000 to the assessable property of the State. H.

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#### FIFTH PAPER.

"I'm a jay-hawk that's crested, I am;  
I'm a blizzard that's tested, I am;  
I'm the boss of the melish,  
I can croak whom I wish;  
I'm a Gov'nor, I'm a daisy, I am,"  
—Fuck.

Whether or not it is my province to declare the motives which impelled the performances of the

actors in this real life drama, as the historian of the direful events that followed the installation of Powell Clayton as Governor of Arkansas, I shall indulge in no invectives, but leave facts to speak for themselves, and the intelligent reader to make his own deductions.

Should the narrator of human events essay to 'judge' the intentions of their agents, the beam in his own eye might be of huge proportions, and he unable to accomplish the feat of 'casting it out,' that he might see clearly 'the mote that is in his own eye.'

The comments of eye-witnesses and utterances of the other *dramatis personæ* are proper to be introduced as evidence to be weighed by the circumstances of their situation.

What passions or purposes actuated the newly-appointed Governor in the course he adopted toward the people of the State, is the subject of legitimate inquiry to the reading public. General Sherman was as brave, and a greater soldier, yet he gave liberal terms to a vanquished enemy, and uttered words of sympathy and encouragement to a people petitioning for relief from political oppressions—technical, rather than actual.

Governor Murphy had spoken with much spleen against 'rebels' and their sympathizers—of whom at one time he professed to be one; but all his acts, as Governor, were characterized by clemency and fair

dealing, which quickly won and entitled him to the confidence of the people.

Gen. Clayton had been prudent in his cotton investments while in command on the Arkansas River. With the proceeds he purchased a plantation from a shrewd old democratic capitalist of Nashville, Tennessee, and must have been annoyed to find, after his purchase, that it was upon a 'caving bank' of the river, and that the best prepared land was rapidly washing into the muddy stream. Upon the return of the Confederates, after peace was declared, he was profuse in his expressions of devotion to the Democratic party, and hastened to announce his willingness to represent the party of his district in Congress. He was keenly stung by the ill-concealed scorn with which his overtures were rejected by the Democratic leaders. The whimsical accounts which he saw in the newspapers of a mythical organization, whose members were said to rise up out of the stumps and fence corners, with tall white hats, and who could drink whole pailfulls of water at a single gulp, and were described as a terror to the negroes, called the 'Ku-Kluxes,' suggested to the Governor the justification of exercising arbitrary power through military displays, in which he felt himself at home, and whereby he might gratify his resentment of all the slights and injuries he had received at the

hands of his quondam party associates. If he could put his State government on a military footing, like the doctor who cured 'fits' only, he was sure of his ability to govern.

There was really no organization of the "Ku-Klux-Klan" in the State of Arkansas. There were sporadic attempts at the formation of some such organization, but they came to naught. That the extensive organization throughout the State of negroes and strangers, known as the Union League, suggested secret associations of whites was natural to the inhabitants of localities where they were in the minority; but no practical steps were taken when it was observed that the Union League, as an association, committed no overt acts of injury to the white inhabitants, or their property.

The autocratic powers confided to him by the State Constitution, easily tempted the new Executive, filled with visions of wealth and political distinction, to indulge in excesses. Such power has caused irresponsible rulers uniformly to play such fantastic tricks, that it is recognized as a form of insanity, and is known as the Cæsarian malady, and has done more to devastate States and cause misery to the peoples than plagues, pestilence or famine.

Governor Clayton was not long in manifesting symptoms of the

Cæsarian malady, if I may accept the evidence of a writer who knew him well and had just visited him at Little Rock, and whose estimate of him was published in a letter to the Louisville *Courier-Journal*, January 25, 1869, over the *nom de plume* of "A Fair Minded Carpet-Bagger." The letter is in itself proof that it could not have been written by an ex-Confederate, because it shows a familiarity with the Governor's army experience and associations not known to Confederates, or to any but those who had served with him. It is the product of a man of high attainments which he could only have acquired by means of some such advantages as the writer claims to have enjoyed, and who shows an ability that would have enabled him to discern and analyze the feelings and purposes of his former superior in his new position. I take the following extracts from that letter:

"I served with Governor Clayton during the war. I was born in Massachusetts. I was educated at Harvard, and have always been a Republican. I voted for Fremont—twice for Lincoln, and recently for Gen. Grant—for President. My purpose is to give a fair notion of the condition of affairs in Arkansas. That condition is terrible. Nothing like it exists this side of the Cretan Islands. Common, every-day events remind me of the reign of Warren Hastings, in India, or of Mustapha Asaph, in Greece!

"During the rebellion, Clayton commanded a brigade of the best cavalry in the Union service, and commanded with vigor. After

the peace, he tried conservatism; found it unsuited to his purpose; plunged into radicalism, and now openly declares *his purpose to depopulate* the State and repeople it with loyal negroes. Tranquillity would be fatal to his plan. The distance between him and Washington; the friendliness of the Government; the ease with which his acts may be concealed, and the acts of the people misrepresented, make him bold and careless. He knows his game. He has studied the ground. And he will not fail. Indeed, I see no help for Arkansas. Nothing this side of disorganization and reorganization of society will suffice, and this can only be the work of years.

\* \* \* "Old party differences have nothing to do with the matter. The term 'rebel' is used only as a pretext. One of Governor Clayton's agents is a rebel bushwhacker whom I captured and tried by drum-head court-martial in 1864. He escaped *my* halter to become the surer prey of my superior officer, whose confidential friend he is now, and has been for months. The very meanest cut-throat in all the militia was a private in Terry's body-guard and afterwards a scout for Wharton and Harrison!

"One of John Brown's cronies, who went from New Hampshire, in 1857, with a Sharpe's rifle; served faithfully through the war as a Union soldier, and who had settled down, with a wife and a farm, was recently murdered by a negro militiaman. This negro militiaman had been a hostler for Kirby Smith, and had killed, as he says, 'many and many a Yankee.'

"These are *facts*, and I give them for what they are worth. I do not say the people are unoffending. They resist as desperate men only can resist. But if they *did not*, it would be all the same. Clayton's policy is extermination. Nothing can divert him. He is not a milk-sop, but a man of genius, and the field is fruitful. All that he has to do is to pass

his scythe over the land, and reap a full harvest of *blood*, which is the *cement of his power*."

As I have said, Clayton was no coward. His exhibition of apprehension at the existence of the Ku-Klux must have been simulated. He had his spy in the only lodge ever organized in Little Rock, and he knew that it held but one meeting; that it never took the slightest action of any kind, and disbanded. He knew all that went on in the society of the 'Knights of the White Camellia,' organized afterwards, and that this latter organization, although it met oftener and enrolled, indiscriminately, all who applied, was as lifeless and impracticable as the former.

As insincere as was his secret circular to the members of his Legislature, telling them that there was a conspiracy to assassinate a sufficient number of them to defeat a quorum, must have been his letter to Gen. Smith, the U. S. Military Commander of the District, of which the following is a copy:

"LITTLE ROCK, ARK., Nov. 6, 1868.

BREVET MAJ. GEN. C. H. SMITH,

Commanding District of Arkansas:

*Dear Sir*,—In compliance with your request, I herewith send you a copy of your letter of October 3d, and in reply to your communication wish to say, that I did not regard my letter as a private one, as it treated entirely of public business. I think that upon a re-examination of it you will see that it clearly

indicates that martial law is the only remedy for the condition of affairs in the helpless communities referred to. I regret very much that we *differ in opinion*, as the knowledge of that fact, *if it be known*, will of itself have a very detrimental effect. The *opposition* cannot be overcome except by an unconditional surrender of principle, which I am unwilling to make.

“By direction of the Governor.

J. H. BARTON,

Private Secretary.

He had resolved to be sole commander. But he must propitiate the Federal power. Menaces of martial law were made before the Presidential and Congressional elections of November 3d. They were intimidating to the Conservatives, in the extreme, and to such negroes as would have acted with the Conservatives, and prevented a full vote of ‘the opposition.’

Never were a people less prepared or less inclined than the people of Arkansas to enter into a conflict with these dual forces. They well knew that the carpet-bag government would be sustained by the government at Washington, and that any excesses of the former would be excused by the latter, or if reprovved, would be reprovved as a parent corrects a favorite child. The people of the South had no longer their State establishments, within which to withstand encroachments of power from any quarter.

The Governor had not been three months in office when his

Sheriffs in the outlying counties were seizing every pretext for ‘calling out the militia.’ Although it was in the midst of an election canvass, any insignificant disturbance, less serious than city policemen are called on to suppress daily, was exaggerated into an ‘outrage,’ or ‘an uprising,’ attributed to the ‘spirit of rebellion’ still cherished by the ex-Confederates. The Governor acted as if he invited public tumults, and eagerly made capital of them, and omitted no means to magnify their importance. Native Governors would have pursued the opposite course, and earnestly striven to preserve peace and prevent false rumors calculated to retard the growth of the State.

A petty prosecution in Conway county was nurtured into proportions far beyond the exciting causes, and made the name of Clayton in that county synonymous with deceit and cruelty—to remain forever odious. It grew out of the killing, by one negro, of another negro’s dog.

‘Lone’ was the name of the negro accused. He had been the slave of Anderson Gordon, an ex-Confederate Colonel, in Cabell’s brigade. Lone was accused by a negro from the plantations of shooting his dog, was arrested and carried before Squire Humphreys, a reconstruction office-holder, as for a criminal offence. I cannot imagine how the act could have

been made the subject of a criminal warrant. He was arrested, however, and went to his old master for assistance. Col. Gordon was engaged in merchandizing at Lewisburg, and had no experience as a lawyer, but he responded promptly, and consulted John L. Matthews, the prosecuting attorney, an appointee of the Governor, living in the town, who said he was sick, and did not appear at the trial.

Upon the evidence of the prosecuting witnesses—no evidence being introduced by the defence—Lone was discharged. But in a few days he was again arrested upon a warrant drawn by the prosecuting attorney (for shooting a dog), and a large number of negroes, as witnesses, from the plantations made their appearance, *all armed*. At the suggestion of Dr. E. W. Adams, that so many armed men about a court ought not to be permitted, the negroes were persuaded to deposit their guns in a drug store (which was kept by a Republican), and the trial proceeded, resulting again in Lone's acquittal. Some of both races drank whisky on the occasion, and when the negroes called for their guns to go home, a number of them were refused permission to take their guns away—that day, and told to come back for them on some other day. Those who were refused went home angry, and caused dissatisfaction among their fellows on the plantations.

Early in the following week, it was rumored in Lewisburg that the negroes on the plantations had held meetings and resolved to 'mob' Lewisburg on a certain night. The towns people prepared for defence, and placed pickets on the road leading into the town. The commander of one of the picket posts, after waiting some time, departed from his instructions, and led his men in the night some distance east of the town, to reconnoitre. About five miles from the town his party was fired upon from the fence corners. Thos. Burchfield, an ex-Confederate who had lost an arm at Oak Hills (or Wilson's Creek), was mortally wounded, and several horses were killed by the ambuscade. Burchfield lived about a week, and died of his wounds.

News of this disturbance and consequent excitement was reported at Little Rock. The Governor and Mr. A. H. Garland, accompanied by citizens of both political parties, went on a steamer to Lewisburg. A force of militia was ordered from Little Rock to Lewisburg by land. The Governor and his party, by steamboat, arrived at the town, and witnessing the disposition of the citizens, after speeches by the Governor and Mr. Garland, with mutual explanations and assurances, the Governor declared the trouble over, and sent orders to arrest the march of the armed force on the way from Lit-

tle Rock. But to *no one* did he make known the fact that he had ordered militia from Springfield, the county seat, in the hills, thirty miles northeast of Lewisburg, also to march upon Lewisburg. During the day, citizens rode into Lewisburg announcing the approach of this force, under the lead of the Sheriff and Matthews, the prosecuting attorney.

The Governor, before embarking on his return by the steamer, gave sealed orders directed to Matthews and the Sheriff, to disband their men and go back to Springfield. The orders were delivered to them by citizen messengers. The Sheriff promptly disbanded his force. Matthews and the men under him refused at first, but concluded before reaching the town to obey the orders. They had entered into transactions, upon leaving Springfield, for the sale of the coffee and dry goods they were to bring back from the looting of Lewisburg. This became known to citizens of Lewisburg, and Matthews was severely denounced by them.

He had come to the State, during the war, from Kansas, and was a favorite with the Governor. 'Old man' Hooper, who was a neighbor of Burchfield, the man wounded in the ambuscade, said that Matthews had instigated the negroes to arm themselves, and was with them in the ambuscade. Hooper was arrested by order of

Matthews. Hooper, never having engaged in the war, was tied upon his horse and taken down into the 'bottoms,' near Plummersville, on pretense that he was being carried to jail at Springfield. After being 'tantalized' all day by his merciless captors, he was finally shot to death and his body left weltering in the country road. There was no military commission or civil arrests ordered for the punishment of this causeless crime.

Fulton County is in a hilly but fertile region, on the Missouri border, and had, according to the census returns of 1860, only eighty negroes of all ages; in 1870, only thirty-five. It was in the judicial circuit of which Elisha Baxter was judge in 1868, appointed by Gov. Clayton. Upon the organization of a Democratic club by ex-Confederates, which the Sheriff, E. W. Spears, pretended to believe was a lodge of the 'Ku-klux,' he called out the militia and sent squads of them scouting through the farms of citizens. By his direction, one Simpson Mason, a border marauder during the war, went on a scout to the neighborhood of Col. Tracy, an ex-Confederate, and on September 19, 1868, proceeded with a band of mounted men in the direction of Bennett's Bayou precinct. Within three miles of that place (Harlen's store), his company was fired upon from the bushes, and Simpson Mason was killed. His escort fled, leaving his body in the

road. The fleeing militiamen went to the house of Houston Thompson, and ordered him to get the body, money and arms of Mason, and keep them until their return, saying, "It was the d—d Tracy crew, and the killing had only just begun."

About the third day following, the Sheriff assembled thirty men near Talbott's Mill, whence they went to the house of Capt. N. H. Tracy. Not finding him at home, they arrested Joe. H. Tracy, and took him with them to the home of Mr. Uriah B. Bush, ten miles distant, and arrested Bush while plowing in his field. Capt. T. C. Flutey and T. W. Baker rode up and protested against the 'scouting of the county by the militia.' Capt. Flutey told the Sheriff that he would vouch for his being able to arrest, unassisted, any man in the county; that if it was Col. Tracy he was after, and he had a warrant for him, and would guarantee to protect and insure him a fair trial, he, Flutey, would vouch for the peaceable arrest of Tracy. The Sheriff gave his verbal guaranty, and the force went to Col. Tracy's house, but found only his wife there, who told them her husband would be at home, or at Capt. Tracy's during that day.

While they were standing upon the porch of Col. Tracy's house, Capt. Wm. Monks, a noted Union 'bushwacker,' of Missouri, rode up, with sixty Missourians. After

a talk, it was agreed between him and the Sheriff that he and his men should be 'sworn in' as Fulton County militia.

Captain Flutey left them to go home, and on his way stopped at Noah L. Baker's for dinner; and about the same time Col. Tracy also rode up to Baker's. He said to the militiamen, that he understood they had a warrant for him, and he had followed them to give himself up and demand a trial. But Flutey informed him of Monks and Allsop being at Harlen's, and told him that if they laid hands on him they would kill him without any trial. Tracy said they should not take him, but told one of the militiamen, named Smiley, to find the Sheriff, and tell him that he, Tracy, desired to meet him in private, and would wait for him there. After Smiley left, Col. Tracy rode upon a ridge commanding a view of the Baker place.

When Smiley came back, instead of the Sheriff, he was accompanied by Monks and forty mounted men, who made a dash at the house, expecting to surround Col. Tracy. But he seeing them from his look-out, made his way out of danger. Monks sent a scout from there who arrested Capt. Bryant, and brought him in.

The account of these events is an abbreviation of the statement of J. H. Tracy and N. E. Baker, which was published in the *North Arkansas Times*, October 10, 1868,



edited by Charles Maxwell. The conclusion of the statement I copy literally, in the language of the writers :

"Monks and his men then commenced scouting the country, destroying forage, riding over yards, feeding and camping around houses. They took upper and sole-leather, tobacco, horse-shoes and nails, without paying for them, from Harlen's store; made a guard-house of Harlen's dwelling, and compelled his wife to cook for them and the prisoners. On Saturday Monks called on all the men who were in favor of killing the prisoners to fall into line. About seventy responded; but ten or fifteen refused to fall in. At this the Sheriff protested, and said, "They are my men, and I do not want them hurt." Monks replied that "he would do as he d—d please," and ordered Capt. Bryant and U. B. Bush to bring forward the men who committed the murder by Monday at 2 o'clock in the afternoon, or the prisoners should be killed. A scout brought in Archer and Hunter, who had been arrested at their homes, but left there—Hunter, on account of sickness, and Archer, because of his *blindness*. The Sheriff then went away, leaving the prisoners in the hands of the mob, and never went back to see what had become of them, saying he was afraid they would kill *him* also.

"Saturday, at 2 o'clock p. m., they broke up camp at Harlen's and moved up to Col. Tracy's place. They took possession of the house and drove his family into the kitchen, ordering his wife and mother-in-law, Mrs. Pickrue, to go to cooking, or they "would burn the last d—d thing on the place." They chained U. B. Bush with a log-chain upon one of the beds, and pitched into Tracy's papers and books, and made a general smash of them; tore up his buggy and threw it into a mill-pond; took all the mill-irons, augers and tools they could find, and threw them away;

fed away and destroyed about 4,000 bundles of oats; about 200 bushels of corn, and cut and destroyed corn yet in the field; took and destroyed some thirty bee-hives; killed all the chickens, and smashed up things generally, to the damage of Tracy, of between seven hundred and a thousand dollars.

"They took out Capt. Bryant; hung him up by the neck, and told him if he did not say that certain parties killed Mason, they would kill him, but if he would implicate certain parties, he should be released. At last, to save his life, he told them any and everything they asked him—so he told Bush, when they again turned him into the guard-house. Said he to Bush: 'I have been nearly killed by these men, and to save my life I have told an awful tale. I had to tell them that you did assist in killing Mason, and the only chance for you, is to do as I have done,—lie out of it the best you can, and get out of this place.'

"Bryant was sent out with an escort, and they reported that he 'made his escape.' They arrested one B. T. Deshazo, a very harmless citizen, and tied a rope around his neck, surrounded him with pistols cocked, and told him if he did not acknowledge that Col. Tracy, Capt. Tracy, T. W. Baker, U. B. Bush, and Capt Bryant did the murder, they would kill him; but if he would tell, they would turn him loose. He protested to the last that he knew nothing about it. They abused him very badly. They then caught up Deshazo's little brother and would write out just the evidence they wanted, and ask him if it was not so? The little fellow would say what they wanted him to say, and they would come in and tell a prisoner that a certain one had sworn to statements implicating him, and he had as well acknowledge, etc. Some times, some of the guards would get an opportunity, and tell the prisoners that nobody had so sworn, and not to acknowledge anything.

"Things went on this way, and they had prolonged Bush's life, until about dark, Mon-

day night, when Pink Turner, the Deputy Sheriff, arrived with a writ of *habeas corpus* for the prisoners (issued by Hon. Elisha Baxter, Judge of the Third Judicial Circuit), which Monks and his men, at first, *voted* unanimously to disobey, saying they intended to kill *ten* men for Mason, and had *three* who were already *fat enough*. Some time after they refused to obey the writ, a squad of them found some newspapers in the house and made caps of them, and started up the road, in the direction of Salem, saying they were 'Ku-klux.' Directly after they left, Monks told the Deputy Sheriff that he would obey the writ, and the prisoners were at his command. The Deputy Sheriff then took U. B. Bush and J. H. Tracy, and started for Salem, saying that Tracy should not be hurt, but saying nothing about Bush. When they had proceeded about two miles, they were met in the road by the men with paper caps, who made no halt, but rode directly up to them and made efforts to seize the bridles of the prisoners' horses. The Deputy Sheriff caught J. H. Tracy's horse, and whispered to Tracy to run with *him*. They ran, leaving Bush in the hands of the men. After they had fled a short distance, Tracy heard Bush pleading for his life, and directly they heard firing. Bush's body, pierced with three balls, was found, at daylight next morning, near the spot where he was taken away from the Deputy Sheriff. William Rirchardson, when the prisoners were thus taken away from the Sheriff, galloped back to Col. Tracy's where the main gang was, and told them what had taken place, when all of them mounted and started up the road. In the excitement, T. W. Baker, Deshazo and the rest of the prisoners escaped. The gang returned to Tracy's and hunted around in the orchard and lots for Baker, thinking he was too sick to sit up, and had been carried out by the other prisoners.

"On learning that an armed body of men

was advancing upon them, Monks and his band left in haste for Missouri, *taking to the woods*, after they had proceeded a short distance. The Deputy Sheriff arrived in Salem before day with J. H. Tracy as a prisoner, who immediately stood his trial and was acquitted, together with all the rest, who have stood their trials, to-wit: N. W. Baker, E. C. Hunter and James M. Archer. The others implicated are ready for trial when called on. The Prosecuting Attorney said to a gentleman in Salem, after the prisoners had been acquitted, that he was satisfied it was nothing but a 'Union-League trick,' to get vengeance upon certain parties."

It was alone through the interference of civil process that the lives of these citizens (all except Bush) were saved. Monks, who connived at the murder of Bush, heeded the writ of *habeas corpus* as to the others. This great writ, through which any captive may have the causes of his imprisonment inquired into judicially, and which is an obstacle in the way of unlawful methods of vengeance and oppression, most objectionable to tyrants, drove the Missouri invaders out of the State of Arkansas, where the Executive authority did nothing to restrain them, but where judicial process was yet powerful for the repression of crime and the preservation of peace. While judges should be required to issue this writ, it was seen by the Governor that there were limits to his supreme authority. The law was above him. He might appoint judges, and remove them; but the law made it impera-

tive upon the judges to issue the writ whenever applied for by the humblest, most helpless prisoner. And so such an irresponsible instrument of tyranny as Monks, the leader of lawless invaders from a neighboring State, was driven out by an appeal to the judicial department of the State government. The Governor realized that his power would not be absolute without the existence of martial law.

It does not detract from the power of the writ, or the fidelity of the judge, that he saw proper to write a note to the Deputy Sheriff, who served it, to the leader of the outlaws:

*Colonel William Monks:*

We ask you most earnestly, as officially representing the Judiciary of Arkansas, to turn over the prisoners to the Sheriff. We beg of you as citizens to allow the majesty of the law to be vindicated in this matter, and not to imperil the lives and homes and property of all good citizens of this State.

Respectfully and truly yours,

ELISHA BAXTER.

While Judge Baxter was thus endeavoring to prevent destruction and bloodshed, and was interposing the writ of *habeas corpus* to maintain the supremacy of the civil authority, in a time of peace, against the lawless intruders from another State, the Governor who had appointed him to office, and whose duty it was to resist invasion, was writing letters to the chief promoter of the disturbances. I append one of the Governor's let-

ters to his Sheriff, Spears, who had welcomed Monks and his men, and so promptly sworn them into service as members of the militia of his county:

LITTLE ROCK, October 16, 1868.

*Wm. E. Spears, Esq., Salem, Fulton Co.:*

DEAR SIR,—Your communication in relation to the troubles in Fulton county is received. *Your course is approved.* I regret that the offenders are still at large; but think it is best not to attempt their arrest until after the election. Keep your eye on them, and bide your time.

By direction of the Governor.

J. H. BARTON, Private Sec'y.

And now again there was trouble in Conway County. The truce proclaimed by the Governor was a hollow one. Capt. John Gill, who had served under John L. Matthews, in the 3d regiment Arkansas Federals, was placed by Matthews in command of three companies of militia—two companies of whites and one of negroes—which raided the country around Lewisburg, and through Matthews' judicial district. Gill pretended to establish a hotel in an old vacant store-house. His hotel was suspiciously burned, the fire communicating to Col. Gordon's store-house, and destroying the latter, with a quantity of valuable goods and supplies. Only energetic work saved Col. Gordon's residence. Wells & Howard's store was burned about the same time, with most of its contents. It was while Gill was in command, that Casey's store-house

was also burned, and the owner, a quiet citizen, burned with it, and all his goods except a crate of crockery. His money, of which he was reported to have considerable sums, was destroyed or stolen. J. E. Bentley and P. O. Breeden were supposed, and were probably intended, to be burned with Casey. Gill ordered an inquest, and the jury, by their verdict, found that Bentley's and Breeden's remains were mingled with Casey's. Costs amounting to \$180.00 were charged against the county for *three* inquests, and the same remain a record in the office of the County Clerk. But Bentley and Breeden had secretly escaped and kept out of the way. It was a squad of Gill's command that arrested old Thomas Hooper, five miles above town, and shot him on 'the bottoms,' near Plummersville. When they arrested him they killed his son-in-law, Jackson, pulling corn in the field, and wounded a man named Perry, who was at work with him. About a year afterwards Matthews, in going to or from court in Perry County, was assassinated and left dead in the road.

Judge Baxter's personal communication, delivered to Monks by the officer who served the writ of habeas corpus, was the object of sarcastic comment. But at that time of official dissembling, to my mind, it gave assurance of the Judge's good faith in issuing the

writ. It was evidence that the writ was not issued as a mere formality, but that the Judge meant it to be obeyed.

The legislature was in session the following April—the same collection of nondescripts which had adjourned from July, 1868. It regarded the performance of the Missouri 'loyalist' in a different light, if the House reflected its sentiments on the occasion of the visit of that hero to the State capital. The House adopted unanimously the following resolution:

*Whereas*, Colonel William Monks is among us, and as he has distinguished himself for prowess on the tented field in favor of equal rights to all; therefore be it

*Resolved*, That he be invited to address the citizens of Little Rock at seven o'clock this evening, in the Hall of the House of Representatives.

The invitation was doubtless pleasing to this flower of chivalry. It was not altogether full of joy to those thus doomed to hear the 'address.' Sad-faced Fitzwater, the mover of the resolution, may have offered it in the vein of Mark Twain's burlesques then coming into vogue. But the house voted it with the self-sacrificing patriotism of Artemus Ward. In their fervid loyalty these rising statesmen may have sincerely believed that carrying bee-hives by assault, scaring women, 'charging' a solitary citizen and murdering a prisoner by a troop of seventy horse, was 'prowess on the tented field.'

With a smaller force Frémont invaded California, and Walker conquered Nicaragua. To elude imaginary pursuit, the murderers of Bush 'took to the woods,' upon the first rumor that there was an armed force to meet them. They recklessly penetrated the black-jack solitudes until safe beyond the Missouri border. The rumor that inspired this strategic maneuver was the invention of overworked wives, who saw their scanty stores disappearing with entertainment of the hungry warriors. The phrase, 'in favor of equal rights to all,' which rounds the rhetoric of the invitation, was a threadbare motto of a mock philanthropy. It deceived no one. All men knew that it meant oppression of the many, for conserving the power and interests of a few. The altruism it professed was 'too utterly' self-denying for the characteristic thrift of its originators.

"To save a fellow-man from death  
Never would *they* cry "Dear friend, O take  
This life-preserver for thy sake."

The Governor appointed three 'generals,' two of them from the Legislature, and one from the U. S. Marshal's office—all 'carpet-baggers'—to command the three districts designated in his orders. According to the description of the American tramp, they had tried nearly all the walks of life. By the constitution, just adopted,

"Officers of the Executive department were ineligible to any position in the gift of the qualified electors." These militia-officers, thus transferred to the Executive department, returned to their seats in the Legislative department, without pretending to be re-chosen by the qualified electors, and took part in the enactment of measures which granted them immunity from punishment under the laws they had violated as militia-men.

D. P. Upham was assigned to the Northeast; S. W. Mallory, of the Senate, was given command of the South, and R. F. Catterson, of the House, was assigned to the Southwest. Gibson, of Dardanelle; Coolidge, of Union, and Demby, of Montgomery, members of the House, accepted orders to raise men and renew their raids against their ex-rebel neighbors.

The militia levies consisted of whites and negroes, until the latter grew insubordinate and had to be disbanded. The former were a people about whom much has been written. From the mountain districts of the older Southern States, they had removed to similar regions in Arkansas, in which the planter and his slaves would have starved. There they built their log dwellings, and, except a little coffee and sugar, were independent of commerce. They did not hate slavery as much as

they hated the *slave*, who in return aspersed them as "poor white trash." With instinctive jealousy of negro competition, they declared the late war "a rich man's quarrel and a poor man's fight," and fled or fought the Confederate conscripting officers. Attracted by the military bounties, they became at length nominal recruits to the Union army, and with pay in prospect, and new opportunities for plunder, eagerly responded to the Governor's call.

The great body of the negroes remained faithful to their peaceful education in slavery. Only the idle and vicious, as a rule, joined the militia, in which they developed the atavism of race, and exemplified the pitilessness of the dark races the world over. Their employment to harry their former masters and mistresses was regarded a brilliant move of the humanitarians. The authors and signers of the renowned accusation of the Colonies against their sovereign had set forth in that instrument: "He has excited *domestic* insurrection among us, and endeavored to bring on the inhabitants of our frontiers the merciless Indian savages." (The 'domestics' were African slaves).

It was the climax of their list of grievances, and placed the two races in the same category.

The Africans in America had no more agency in this warfare than the lions from Africa which

were made instruments of torture to early Christians in the Roman arena, as depicted by Talmeda and Gerome. Ogé, who led the massacres of Hayti, Mackaya, who renewed them, encouraged by the *Amis des Noirs*, of Paris, and Nat. Turner, who headed the insurrection in North Carolina, were the 'lions' that were to be feared at the South. They were well remembered by the *Amis des Noirs* of America. Their failure to 'perform,' in resistance to every means of encouragement, was a surprise to the pious transcendentalists, Emerson, Thoreau, Alcott, Sanborn, Wendell Phillips, *et al.* From John Brown to Mallory, they proved a disappointment.

The South was in a condition of utter helplessness. Its people had responded to the invitation to return to their homes and resume their labors of peace. The ex-Confederates were all prisoners under parole. They were entitled to protection from their conquerors. But the battle being ended, and arms laid aside, this new enemy appeared against them thus bound and defenceless. We have all read with horror of the inhuman creatures who sometimes appear upon the scene of awful fatalities, to rob the dead and murder the wounded, governed by no other motive than greed of gold.

Several hundred of the militia were collected at Batesville, by Upham. This faithful chieftain

wrote to the Governor asking what were his powers under martial law? The Congressional Viceroy answered, employing the definition of the Duke of Wellington. But the Iron Duke applied it alone to territory invaded by his armies, and not to any part of the British realm. Governor Clayton wrote in reply:

"LITTLE ROCK, Nov. 8th, 1868.

"BRIG. GEN. D. P. UPHAM, Batesville:

"*Sir*,—In reply to your communication of Nov. 13th, I will say, that the provision of the militia law to which you refer applies only to the *discipline* of the militia force, and not to *political* offenders. A military commission is not governed by *any written* law. It is simply the will of the Commander-[in-chief]. You are authorized to organize military commission for the *trial of citizens*, but will not enforce the death penalty without sending the proceedings to these headquarters *for approval*. By order of the Governor.

"J. H. BARTON, Private Secretary."

Barton was the Governor's brother-in-law, I have been told. The Governor also wrote Upham, Oct. 19th, that he had not written him in person because of an accident by which he had lost his right hand. About that time, his hand had to be cut off. While enjoying peaceful recreation, amidst the general excitement, with dog and gun, of which he seems to have been as fond as Mr. Winkle in the *Pickwick Papers*, he received a wound in the hand by the accidental discharge of his fowling-piece, rendering amputation nec-

essary. Like Mr. Winkle, he learned that "Every bullet has its billet." He has thenceforth worn an empty sleeve."

He also wrote Judge Baxter inquiring if there were in his circuit any lawlessness that could not be suppressed by civil law? He did not mean Monks or his band from whom his Sheriff, Spears, had stolen away in such mortal terror. I had no means of ascertaining the Judge's response.

Gen. Upham, being enlightened, proceeded to 'execute' martial law, but without referring the capital cases to the Commander-in-chief. It has not been disclosed what disposition he made of the money he extorted from the helpless victims who were subjected to his merciless exactions—exactions conducted with an ingenuity of rapacity unparalleled since the campaign of Alva in the Netherlands. He led a detachment and established 'a post' at Augusta, in Woodruff County, in the fertile valley of White River. In that productive region the old citizens had been now three years busy in recuperating the losses they had sustained during the previous years of military invasion and occupation of the armies of Congress.

News of the violence and ferocity of his men had preceded Upham. Their merciless treatment of ex-Confederate soldiers had been told by fugitives.—

Many of the ex-Confederates of Woodruff County resolved not to fall into their hands, and withdrew to adjacent swamps where they organized themselves under Colonel Pickett, a gallant ex-Confederate. They proclaimed their determination, rather than be tortured in violation of their paroles, to sell their lives dearly. They made no war-like movement, farther than to provide themselves with arms and munitions. They were never attacked by the militia, who exercised a wholesome discretion in this particular, confining their operations to running down and shooting, or robbing the citizen they found alone.

At the ancient hostelry, well-known as the 'Anthony House'—destined to be mentioned again in these annals, and the scene of many a stirring event in Little Rock—soon after Upham's 'occupation' of Augusta, I met several old citizens from Woodruff county, who had fled to the State capital for protection. They had appealed to the Governor. But as well might the hind have asked pity of the lion. They narrated to me several instances of the proceedings of Upham, under 'martial law,' which came under their observation. I took down from their lips the following memorandum of their experiences with Upham's militia:

Albert W. White said,—

"I am sixty years of age. I live ten miles north of Augusta. On the 8th of December, 1868, I was arrested by Capt. McClure and squad of mounted men of Upham's militia, at my store. They took from my store one thousand dollars' worth of dry goods; four horses, and one mule. They took me to Augusta and imprisoned me in the Irving block; kept me a prisoner there from Dec. 8th, 1868, until Feb. 6th, 1869. There was never a charge made against me. I had pneumonia while in prison, and was not allowed a physician. My son, Richard A. White, was made a prisoner just before I was released, and placed in the Irving block. I obtained my release and that of my son by paying money to Upham's Provost Marshal, John H. Rosa. He sent me word by Mr. Horton, who had been a prisoner and released by Rosa, that I could have my son released for three hundred dollars, and unless I paid him that sum, he would send him to the penitentiary at Little Rock. Col. Lewis Barnes told me he had seen Rosa, and Rosa had told him the same thing, and advised me to pay the money. I gave Col. Barnes that amount, who handed it, in the presence of Rosa, to my son, and saw my son hand it to Rosa, who released my son at once. I was released Wednesday, February the 6th; my son the Sunday following."

Robert W. Murray stated,—

"I live in sight of Albert W. White, ten miles from Augusta. Before the release of Mr. White, I was arrested at home by a scout of cavalry, under Lieut. Wilson, of Upham's militia, and put in the same place of confinement. Understanding that *prisoners were paying out*, and being sent for by Rosa, I was taken before him by Ford, Rosa's 'orderly.' I offered him fifty dollars for my release. He demanded one hundred and fifty dollars for releasing me, and giving me 'protection papers,' and returning my two mules which



had been taken by Wilson's scout. I paid him that sum and was released, but got only one of my mules."

Charles F. McKinney stated,—

"I live eight miles north of Augusta, on the Jacksonport road. I was arrested on riding into Augusta, Dec. 28th, 1868, by Capt. McClure, and imprisoned, without any charge, or other formality, against me. Rosa came to me about ten o'clock that night; said I would be tried for carrying powder to Pickett and his men, and if convicted, I would be shot. He said he would release me for three hundred and fifty dollars, and give me 'vouchers' for the property taken from me, and 'protection papers.' I told him I could not raise that amount of money. He took me before Upham, who questioned me about the powder, and sent me back to Rosa, who had me put in the town calaboose, and came to see me again, and said he would accept two hundred dollars, and send a man around town with me to get the money from my friends. Ford, his orderly, guarded while I was trying to raise the money about town. This was on Friday, or Saturday, January 15th, 1869. Seeing that I was not able to get the money, Rosa released me on 'parole,' to go home and gin and sell my cotton, which I did, and paid him the money in the presence of his wife. I got 'protection papers,' but the vouchers proved worthless to me."

These witnesses also gave the details, as they heard them, of the killing, by Upham's militia, of the following persons in the neighborhood of Augusta, viz: Richard Coley, over sixty years old, met a gang of militia in the road, when he turned his horse or mule and tried to get away from them. He was shot dead and left in the road.

John Tharp was the first man

they took out to shoot, by order of Upham's military commission, upon the charge that he was Captain of Ku-Klux. There was never a man's life begged for as was his. He was shot and buried without a coffin.

A young man named Rogers, at Cotton Plant, engaged to be married, was shot to death by orders of Upham, after he had paid Rosa three hundred dollars.

James Bland was taken at midnight from the side of his wife and child, and killed without trial, even by a commission.

Charles Ruddock, the school teacher, was taken from his room at night and killed without any trial.

Dr. Marquis D. McKenzie, a favorite physician and leading citizen of the county, was taken out of his house in the evening by Upham's men and shot, and his remains thrown into White River.

Bartlett Y. Jones, a well-known citizen, was taken out the night Dr. McKenzie was, and killed.

There was no charge against these men except their expressions of indignation at the invasion of the county and acts of the militia.

An Englishman, named Parker, temporarily sojourning at Augusta, was killed for denouncing the militia. The British Minister was informed of the killing of Parker. But his government, which had punished Theodore, and subsequently avenged Isandlwana, hes-

itated to inquire into the deeds of Clayton's militia in Arkansas.

A Frenchman, who lived at Joe Hill's place (with an unpronounceable name), was charged with being a spy of Pickett, and killed in the woods near the town. The French Cæsar was then bickering with Russia, and was soon afterwards himself an exile. His son has recently fallen under the assegaïs of Zulu negroes, and thus the poor young prince may have expiated the death of Toussaint, eaten by rats in the dungeons of Joux, to which he was consigned, during the reign of Napoleon the First.

One of the refugees from Augusta gave me an original safeguard, issued by Upham—"protection paper," he called it—of which the following is a true copy:

"HEADQRS. NORTH EAST ARKANSAS, }  
AUGUSTA, Dec. 29. 1868.

"A safeguard is hereby granted James B. Currie and family and all *property* of whatever kind belonging *to him*. All officers and soldiers under this command are therefore commanded to respect this safeguard.

D. P. UPHAM, Brig. Gen. Commanding.  
E. H. MIX, [in red ink] Capt. A. Adj. Gen.  
JOHN H. ROSA, Provost Mar. Gen."

Rosa, though small of stature, and of 'Dago' complexion, was worthy of his chief, the black-bearded Upham.

The foregoing are but instances, reported, as aforesaid, by accident. Citizens of the invaded districts

were afraid to complain, and complaint would bring no relief. In the fertile counties skirting White River, hundreds of country 'stores' were gutted; barns were emptied; fields were stripped, and dwellings robbed. These depredations were not committed upon citizens and ex-Confederates alone. Neither age nor sex was spared. The *Memphis Appeal*, of the 26th January, gave an account of the assault and robbery, by militia, of Mr. Isaac Andrews, of Evansville, Indiana:

"Travelling with his wife in a buggy, overland, he was overtaken at the Tyrongee by a party of the militia. One of them engaged him in conversation while another struck him down, and, before releasing him, robbed him of one hundred and sixty dollars. He had proceeded on his way as far as the Bradley farm, when two negroes of another party of militia met him and his wife and demanded his money. He replied that he had just been robbed. The negroes then presented cocked pistols at the head of Mrs. Andrews, and, cursing her, threatened to shoot her if she did not give up the money she had. Mr. Andrews gave them another fifty dollars, all he had with him. Their captors, whose grins now lighted their sombre features, permitted their victims to depart, bleeding and pale, while they divided the treasure."

The same paper published a telegram from Little Rock, dated January 27, 1869, giving account of the breaking up of a wedding party near Pine Knob, in Johnson County, by negro militia. The bride was a niece of a former As-

sociate Justice of the Supreme Court:

"Just after the company had assembled, and before the marriage, a company of negro militia, commanded by a white man, surrounded the place, and putting out the lights, those who had entered the house laid violent hands on the ladies. Some of the guests had weapons with them, which they fired upon the other militiamen who were about to enter, and upon the intruders who ran out to their assistance, the militia returning the fire by shooting into the house. After an exciting fight, in which four negroes were badly wounded and some horses killed, the negroes were driven off. A sister of the bride was dangerously wounded. The radicals say that the object was not rapine, but to make an arrest."

At Charleston, in Franklin County, a respectable young lady was found at home alone by a scout of negro militia, and subjected to criminal assault by several of their number, and left in a state of unconsciousness, amidst the fragments of broken furniture, trunks and scattered clothing.

While Upham was pursuing his mission of death and devastation in the East, the Governor had equally dutiful agents passing his 'bloody scythe' over the Southwest. They were all strangers in the regions they raided, except Demby, the son of a watch-maker, of Pine Bluff, who went there in the fifties, from the East. Catterson was tall and fair, a saddler by vocation. Mallory was red-haired and corpulent, a carpenter. Wiggins was hard-featured, premature-

ly gray, a jeweller. Anderson and Lockhart, I have been told, were expelled by Gen. Blunt from the Union Army, and found their way to Sebastian and Scott Counties.

To Lockhart, the Governor issued orders, Nov. 5, 1868, to raise militia in Scott and Montgomery Counties and unite with the militia of Polk and Pike Counties at Murfreesboro, in Pike County. The order reads: 'What forage and supplies you need obtain without *pressing*, if possible, giving receipts to owners of the same, to be collected at this place (Little Rock). But if you cannot obtain it voluntarily, *you must press* and receipt as before. Success depends upon promptness.'

On their march to Murfreesboro the militia passed through Centre Point. Demby and his men had raided the place from Montgomery County during the war. They entered this place on a 'charge,' finding citizens on the streets, some of them in arms, mistrustful of the object of this sudden approach of armed men in time of peace. The militia, anticipating resistance, began an indiscriminate firing, killing some citizens of the town, and wounding others. They took any and all property they saw proper from the possession of those who were obnoxious to them or their sympathizers. In a similar manner they continued their advance southward, through the productive valleys of the Lit-

tle Missouri and Ouachita, spreading terror among the people. 'Gen.' Catterson assumed command of them upon their march. Dry-goods, clothing, horses, mules and anything they wished, were appropriated wherever found along the line of march. They killed citizens, and, to make others give up money, tortured them under revolting circumstances, and took a great many prisoners whom they sent to be kept in the penitentiary at Little Rock—chiefly such as were likely to be able to pay for their release. His Excellency, the Commander-in-chief, issued to Gen. Catterson, among others, the following *autograph* order:

"EXECUTIVE OFFICE, Dec. 1st, 1868.

GEN. ROBERT F. CATTERSON, Commanding Southwest District:

*Dear Sir*.—I have not heard from you officially since the arrival of the prisoners, Nov. 22d. Judge Searle [one of his appointees] is sick, and cannot hold a special term of court, as I intended [to constitute it a quasi military court]. I will send a commission to Coolidge [a member of the House] as Justice of the Peace, who, I believe, claims citizenship in that county (?).

"The prisoners can either be examined before him, or you can try them by *Military Commission*. If you resort to the latter plan, you had better select the *worst*, and dismiss those who are least culpable. All desperate characters that may fall into into your hands, you had better deal with *summarily*. As I remarked, *your* approval to the proceedings of a Military Court will be *final*.

"From information received, there is a man called Parson Hunt, in Sevier County, who has been a ring-leader in all the mischief

done in that county. He should be arrested and *summarily dealt with*.

"Your course has given great satisfaction here. We are besieged with *peace-delegations*. I listen to their *stories*, and refer them to you and Mallory, believing that you, being on the ground, can act more wisely than I can. Please keep me posted of your movements.

"Very respectfully,

(Signed)

"POWELL CLAYTON."

I copied these letters from the original letter-book of the Governor, with the custodian's permission, and the following orders, which were issued by the Commander-in-chief:

"LITTLE ROCK, Dec. 3d, 1868.

"BRIG. GEN. SAM. W. MALLORY, Commanding District Southwest:

"*Sir*.—I send you a list of men who, *it is believed*, belong to the Ku-Klux. And some of them, *it is believed*, have engaged in the outrages that have occurred.

"Have marked the worst cases. If you can be able to arrest these men, from some of them, doubtless, you will be able to elicit facts, and may, possibly, get something in reference to Gen. Fagan and John H. Burton.

[The list appended was as follows, the worst cases marked with an asterisk]:

"Dr. W. H. Barry,\* Henry Randle,\* (Monticello); Dr. M. C. Reno, (Hopkins County, Texas); James Jeter; James Hankins, Teacher Richardson, Chas. Hopkins (doubt), W. R. Tunnage, Wm. Tunnage, sr., John Dunjap, Pink Holland, — Whitman, Geo. Veasey, Chas. Burks, Frank Bennett, Dr. Owens, Eli Rogers, D. C. Parker (Marion), Jim Brooks,\* Street Hudspeth,\* Milton Dabney (Saline), Chas. Boyd,\* (Cabin Creek), — Boothman, (witness, Grubb); — Hunnicut (Bradley Co.)

John Folliard, Robt. S. Bennett, Nat. Hammett,\* Fred. Wells (Marion), John Sweeny,\* Street Beatty, Sam. Gibson (Bradley), Martin Bradley."

On the 25th of December, 1868, the Governor sent to the same officer the following order, (omitting a few lines devoted to explicit directions) it reads :

"EXECUTIVE OFFICE, Dec. 25th, 1868.

"GEN. S. W. MALLORY, Commanding District Southwest :

"Sir,—I am instructed by the Governor to say, that as soon as Gen. Catterson reaches you, you will proceed at once to arrest the parties whose names have been sent to you, as well as any other outlaws. He thinks you can safely *execute many of them*. It is absolutely necessary that some examples be made.

\* \* \* It may be desirable to have the troops *here*, by the first of January, if the *thing* can be safely done. There will be a large *Democratic Convention* here at that time, and the *militia* may be needed as *delegates*. He thinks you have acted wisely in disbanding the colored troops, under the circumstances Very respectfully yours,

"J. H. BARTON, Private Secretary."

(Some of the negro militia had mutinied and threatened Mallory's life.)

Numerous arrests were made under this order, though many fled to avoid arrest. What disposition was made of some of the prisoners has not yet been made known. Most of them who had friends, or were themselves able to pay ransoms, were liberated. Young Stokes Morgan was disposed of in a more tragic manner. He was accused of complicity in the mur-

der of a white named Dollar, who had been lynched at Monticello for deserting his family and living with a negro woman. Morgan could have proved that he was at Lacy, thirteen miles south of Monticello the night of the killing. But he took no pains to make any defense. He was tried by a military commission which recommended *his discharge*. Catterson reversed the finding, and ordered him to be hung. He was sent to the penitentiary at Little Rock, and taken back to Monticello and hung.

When Catterson and Lockhart reached Hamburg, the county-seat of Ashley County, a prosperous merchant of that place, Col. A. W. Files, had just returned from New Orleans with a large stock of dry-goods and supplies. The entire stock was immediately seized by the militia, and Files taken prisoner. There was no charge against him. There were ladies in the 'store' when he was arrested. Seeing one of them take a handkerchief from her pocket, he slipped into it, unseen, a roll of bills containing seven hundred and fifty dollars. He was taken in charge by four men, mounted, who marched him on foot before them along a road leading out of the town into the woods. It was the 19th of December, and the weather was freezing cold. One of the guards, a man named Anderson, rode the prisoner's mule and saddle, which

were worth two hundred and fifty dollars. Col. Files was afterwards a guest at the Anthony House, in Little Rock, and gave me an account of his arrest. He said :

"He felt positively certain that he was immediately to be killed by his custodians. He noticed the two younger men of the party were ordered to take another direction. This left only two, who were sufficient to dispatch him, and enjoy between them a shorter division of his money. He had retained but little money (about sixty dollars) in his pocket. As he stepped briskly before the mules of his guard, in the mud and ice of the lonely road, he was prepared at any moment to receive their shots in his back. But he had command of all his faculties. At length he heard Anderson say, "See here, sir!" He wheeled instantly, and resolved to do his utmost to *flatter* his would-be-executioners into sparing his life. Anderson had his pistol partly drawn. Files first addressed him with perfect coolness. He told him, with much earnestness, that he saw from his bearing he was an intelligent and courageous man (?) He said he was sure a brave man could not have it in his heart to kill one who had never seen him before, and never done him any harm. Anderson finally let his pistol drop back into the scabbard. The other man had to be mollified. He was more surly. When addressed in the same strain, he said he had been in rough places himself. "But you were spared," said his prisoner, "or you would not be here." They agreed that if he would leave the State, not return to it, so that they could *report that they had killed him*, and let no one know it, and give them up his money, they would let him take to the woods. He handed them his pocket-book. They believed he had more, and one drew his pistol; but he quickly showed that his pockets were empty, and that he had no "belt" around him. They ordered him "to go." He ex-

pected, when he turned, to be shot. They did not follow him. He took to the woods and ran over logs and through brakes until exhausted. Arriving at a neighbor's, he got some money from him. He sent a message to his wife that he was not killed, and not to breathe it. But she did, and was raided and robbed of the money he sent her, and seven hundred and fifty dollars more.

Detachments of Catterson's command raided the counties on the southwestern border. In Sevier County, Mr. Brooks, a respectable citizen, was bound in his own house, and he, with his children, was forced to witness the outrage of his wife by negroes. One of his sons, Allie Brooks, then a boy, now a promising young business man, of Nashville, Ark., is a living witness to this infamous atrocity.

On the Little Missouri, where it runs at the base of pine-crowned battlements two thousand feet high (the ridge called the Fodder Stack), through peaceful, romantic valleys that had never been disturbed by the war, cruel deeds were performed that remind us of the dark ages. One poor rustic was repeatedly hung up by the neck with a *hair-rope*, until life was nearly extinct, to make him tell what he did not know. Another, in a valley called 'Greasy Cove,' on the Little Missouri River, a romantic glen in the mountains (a favorite retreat of General Albert Pike), who protested against the violent entrance of his premises, was hung before his own door,

while the raiders fiddled and danced within. An unusual snow fell during the night. Their host, next morning, was there swinging by his halter, with a cone of snow upon his lifeless head. The 'store' of 'Old-man' Wimberly was robbed, and he brutally maltreated.

While the champions of 'freedom' were engaged in these achievements, the State legislature assembled at Little Rock, in 'adjourned session,' Nov. 17th, 1868. Our old friend, the military parson, representative from Phillips, reappeared in his seat, and gave evidence of his patriotic ardor in a congratulatory address to his colleagues upon the success of the militia in their glorious campaigns in behalf of 'equal rights to all.' He thanked God that the rebel Philistines had again been visited with 'the lightning of His terrible, swift sword.' In no age does it seem that man's thought can transcend his knowledge, and imagine a Deity that shall be less cruel than himself! He introduced a series of resolutions that, under a suspension of the rules, were unanimously adopted, without amendment, as follows:

*Resolved*, By the members of the House of Representatives of the State of Arkansas, the Senate concurring, That the establishment and maintenance of peace, the security of property and life are the first and most important objects of government.

2d. That when civil authority and process fail of the attainment of these ends, and the

magistracy becomes powerless, the military authority and power should be invoked.

3d. Being fully *persuaded* of the preconcerted existence of widespread lawlessness and systematic assassination of the friends of the government, State and National, in certain counties, being at large, defying the officers of the law, we do therefore most earnestly *approve* and *indorse* the recent proclamation of Governor Powell Clayton declaring martial law in said counties.

4th. Believing we are right, and calling on Almighty God and all good men to witness the rectitude of our motives, for ourselves individually and on behalf of our several constituencies, for the maintenance of the State Government and the *active* enforcement of the laws, "we pledge our lives, our fortunes (!), and our sacred honor."

This elaborate screed was copied from the instrument I have quoted, which declared it 'barbarous' to incite domestic insurrection, but was an improvement of the original by introducing the Almighty in this distinguished association.

These proceedings proved of little avail to divert attention from the atrocities that had been committed. Murmurs deep and loud began to come from the spectators, among whom were powerful Republican leaders, be it said to their honor.

Senator Pratt, of the 42d Congress, denounced 'the corrupt legislation and venal governments of the Southern States.' He felt impelled to say, in view of what was witnessed there, 'Had the Ku-Klux outrages been directed ag-

ainst these faithless public servants they would have *been rid of them* and nobody would have complained.' Senator Hale, of the same Congress, said, 'Bad men in the Southern States have bought power by wholesale bribery, and enriched themselves by open-handed robbery. Corruption and anarchy occupy and oppress those unfortunate states.' And President Grant, in a message to Congress, deemed it necessary for the honor of the Nation that the Government should take notice of the unexampled condition of the Southern States. He declared his 'commiseration for the condition of these unfortunate Southern States.' He had been the magnanimous victor who accepted the surrender of the Southern armies upon the terms of liberality that were worthy of his successes. It doubtless moved him to see them so grossly violated. And Grant proved to be the good Samaritan that showed his compassion, after the priests and Levites had looked on, and passed by, leaving the sufferers to their fate.

On the 24th January the Governor sent his message to the two houses in joint session, gravely congratulating them that 'they had escaped the dangers and perils that threatened them, and *in despite of* the efforts that were put forth and *intended for* their *destruction*, they had been enabled to assemble together

again in a legislative capacity.'

He proceeded to give the number of 'assassinations' committed since their adjournment, assuming them all to be 'political!' But in so studied a State paper he could mention eight *names* only of the killed, including James Hinds, the Congressman elect, shot in May or June; a fewer number of killings than had occurred for years in the same time, in a population of nearly a million, and within an area of fifty-four thousand square miles.

He made the following statement in regard to the destruction of the arms *in transitu*, purchased by him for the use of militia, on the 'Hesper,' from Memphis:

"I appointed James L. Hodges, agent of the State, with directions to proceed North and make a purchase of arms. He purchased 4000 stands, which he shipped to Little Rock, [shipped to be carried to Little Rock], but which were stopped at Memphis by a *combination* on the part of the *transportation companies*. On the 12th of October (1868), I chartered the Steamer Hesper, commanded by Capt. S. Houston, to proceed to Memphis and transport the arms to this place. He left Memphis, Oct. 15th. When about twenty miles below that city, an armed band of men, disguised, upon the Steam-tug, Nettie Jones, boarded the Hesper, and destroyed or carried away the arms belonging to the State.

"This *piratical* party was fitted out at Memphis, and as the offense was committed upon the waters of the United States, over which the State has no jurisdiction, you are respectfully recommended to memorialize Congress for the amount expended *for the*



*property of the State which was destroyed."*

Four thousand stands of arms were more than were furnished General Taylor for the invasion of Mexico.

This incident was described in the dispatches of October 17th, from Memphis, as follows—(Memphis, from the high bluffs of Tennessee, overlooks the low-lying forests and cotton plantations of Arkansas):

"Thursday afternoon, about 5 p. m., the tug, Nettie Jones, landed below Fort Pickering, on the east bank of the Mississippi River, below Memphis. She had scarcely made fast, when about one hundred men, who seemed to spring out of the earth, all masked and armed, quietly boarded the tug; took possession of the pilot-house and engine-room; ordered one of their number to cast off, and putting Captain Ford under guard, were soon steaming down the Mississippi. On approaching Cat Island, twenty-five miles down the river, they ran alongside the little Steamer Hesper, at the bank, wooding. The Hesper had left Memphis that afternoon. Capt. Houston and brother, on seeing the crowded tug bearing down upon their craft, made rapid strides for the woods. The maskers sprang upon the Hesper; placed the crew under guard, and began their work. Ammunition boxes, in the hold, were brought up, and gun boxes were broken open; the guns broken, and all thrown into the river. The boxes were seen by the people on the Mayflower floating down the current. It was nine o'clock p. m. when the raiders crowded back upon the tug, and Capt. Ford ordered her to return up the river. At President's Island Chute the tug was run aground; the raiders were taken to the woods, on the Arkansas side, in a skiff, six at a time, and Capt. Ford and crew were left to the con-

trol of their vessel about 3 o'clock Friday morning. He says the performance was as quiet as a funeral. Where the raiders went, after landing, neither he nor any one has been able to discover."

This dispatch was somewhat fanciful. There was only one Arkansian in the party—a gallant Captain, of the Adams line of Steamboats, who went from De Vall's Bluff to Clarendon in a skiff, and thence overland to Helena, and got to Memphis in time to enlist the company that pursued the Hesper. Sympathizing Memphians performed this effectual *coup de main*.

January 19th, 1869, resolutions in the House declaring "the restoration of civil authority to be a logical deduction of the necessity of martial law," were opposed by thirteen members, and the Governor's proclamation of martial law was condemned in strong language. Speaker Price denounced martial law in a violent speech, but, being public printer, and threatened with revocation of his contract, explained, subsequently, that he was inveighing against martial law in Conway County, while the General Assembly was in session.

January 22d, Mr. J. B. C. Turman, of the 8th District (*Republican*), submitted resolutions, which concluded as follows:

*Resolved*, By the General Assembly of the State of Arkansas, *the Representatives of the People*, That Governor Clayton be and he is hereby instructed to revoke martial law

throughout the State, that quiet may be restored, and the *right* of a free people be heard."

The resolution lay over, under the rules, until the 27th of January, when it was called up by Mr. Joseph Brooks, and referred to the Committee on Militia.—There it enjoyed a final repose. The Reverend Mr. Brooks at this time championed all extreme measures. He determined that he would not let the Governor excel him in party zeal. He claimed to have more right to control the party than Clayton, believing that *he* had organized it in the State—the colored wing of it.

On the 13th of March, the Senate passed the resolutions already adopted by the House, ratifying the Fifteenth Article of Amendments to the Constitution of the United States, the prime object for which these bodies had been called into existence by the Military Bills of a Rump-Congress. It stands appended to the Constitution, as a *regularly adopted* article of that instrument:

"The right of *citizens* of the United States to *vote* shall not be denied or abridged on account of race, color, or previous condition of servitude."

"To hold office," was stricken out of the Amendment by the Conference Committee of the two Houses of Congress.

The Fourteenth Article, which had been added through the same

expedient, did not go far enough, in providing that "all persons born or naturalized in the United States are *citizens*." Women are citizens; but citizenship does not carry with it the right to vote. The aborigines are supposed not to be subject to the jurisdiction of the United States, and are *not* 'citizens.' They were the proprietors of the continent by 'divine right' of original colonization. Our pious white ancestors made them captives, and sold them as slaves between the colonies. That method of evangelizing them proving impracticable (unprofitable), they were exiled or exterminated. The remnants of that race cannot vote under either article.

With this crowning labor the legislature, created by the military bills of Congress, bade adieu to the authority and functions usurped by them, and ended under those bills.

The legislature had passed, April 6th, 1869, the act 'legalizing' all proceedings and acts had by military commissions, or done in aid thereof, and prohibiting courts of the State from taking jurisdiction, original or appellate, of such acts; or to hold any person for any act done under martial law between November 3d, 1868, and April 1st, 1869.

The trouble with governments established by military force is that this same force is two-edged. The victors quarrel among them-

selves. Arms are again resorted to to settle the controversy. This is repeated *ad infinitum*; the repeated quarrels can only be settled by force of arms. Such was the condition of the middle ages. As the result of these forceful measures disaffection arose in the ranks of the invaders. Then the wisdom of the Democratic committee in urging the citizens to qualify and vote became apparent. In order to triumph through the strength of the citizen vote, a powerful element in the Republican organization began to form a faction to be known as the Liberal Republican party. Gen. John Edwards and Hon. Liberty Bartlett were among the chief sponsors of the new party, 'Honest John,' as Edwards was called, had been certified a member elect of the House of Representatives in Congress by the Governor, under circumstances that invited serious charges against the Executive. Yet Edwards had a dagger for the Governor, and headed a call for a convention of the 'Liberals' at the capital.

A few days before it met, through Judge Thomas Bowen, representing the Clayton administration, and the editor of the *Gazette*, acting for the Conservatives, it was agreed that there should be a night-meeting of leaders of these respective parties in the Supreme Court Library, which was up-stairs in the east wing of the capitol. The Governor realized that the

'Liberals' must be headed off by concessions more captivating than they might offer. The Conservatives were distrustful of the 'new swarm,' and readily agreed to the proposed conference, which was fixed for eight o'clock, p. m. Leaders were duly notified—ex-Judges Watkins and English, Mr. Garland and others—and ready for the meeting. But just before the appointed hour, Judge Bowen sought the editor and told him, 'somebody had leaked,' and suggested that those who had been notified had better appear at a concert by Brignoli, to be given that night, in order that their presence there might contradict the report, as no conference could be held then. So the Conservatives were notified, except two, who could not be found. They were engaged in a quiet little game of poker. A majority of the others were conspicuous at the concert.

Unaware of the postponement, the two made their way through dark passages to the place of meeting, and very naturally indulged in remarks and exclamations, at not finding the rooms open and lighted. Sharp eyes were watching them through the darkness that enveloped the ancient building, and the eager ears of Hodges, Catterson, and others, were listening from behind columns and buttresses. That the Governor knew of this appointment, or its objects, no one could assert, positively, ex-

cept Judge Bowen. The Governor, Judge Bowen, and their families were at the concert, in the city hall, ignorant of any mishap that had resulted from the postponement of the preconcerted meeting.

The next morning, the Governor was met at the entrance of the executive office by 'Gen.' Catterson, who openly took him to task for 'arranging a meeting with Democratic leaders for turning over the State to the Democracy.' The Governor promptly responded, that he was 'a liar.' The General, with laurels, fresh from his campaign against the paroled prisoners, dry goods stores, and corn-fields of South Arkansas, retorted that the Governor was 'a d—d liar.' This was drawing a nice, if profane, distinction of epithets. The one-handed Executive rejoined with a stinging slap upon the General's right cheek. The Governor had to reach upward to strike his lank lieutenant, who offered no resistance. The drum-head 'General' had seen old men and boys, whom *he* had ordered to execution, *die*, uncomplainingly and unresisting. He looked a volume of martial law, but only remarked that 'he would not strike a one-armed man,' and went his way, with the print of Clayton's fingers on his face.

No more conferences were called in the Supreme Court library. The Governor took the more fearless

method of proposing a public speech, in which his offers of conciliation should be made openly. Upon being serenaded, one evening, he appeared upon the steps of the capitol, and made his 'October speech,' designed to outbid the 'Liberals' for the Democratic support.

His speech was 'liberal' beyond expectation. He declared the period had arrived when the Executive should be shorn of his extraordinary powers; he promised to reduce the number of offices, and announced himself in favor of the removal of political disabilities growing out of participation in rebellion! These were tempting offers. They were received with some misgivings as to their sincerity by the assembled citizens, but they were highly effective. They caused the Democracy to give a very cold shoulder to the Liberals. The liberal movement seemed killed.

This was the attitude of the factions during the months of November and December, the Governor taking a conciliatory course, until the meeting of the next legislature, the second after the adoption of the constitution of 1868. It met on the 2d of January, 1869. Tankersly, imported and appointed from Clark County, being chosen Speaker of the House; Lieutenant-Governor James M. Johnson being *ex-officio* President of the Senate.

The message of the Governor, read in joint session, on the 4th of January, was fully in accordance with his 'October Speech.' A person to represent the State in the Congress of the United States (as Senator) was to be chosen by that General Assembly. The Governor was plainly desirous of being that 'person.' No one ventured to oppose him.

On the 10th of January the two houses proceeded to nominate him, and, on 11th, the 'Honorable Powell Clayton received in joint session of the two houses, a majority of all the votes, and was declared Senator elect for the term commencing March 4th, 1871, and to expire March the 4th, 1877."

It cannot be forgotten that the Rev. Joseph Brooks, author of the 'Almighty' resolutions of the former General Assembly, approving the Governor's militia policy, and his son-in-law, Moses Reed, had been representatives from the populous negro district which, embracing Phillips County on the Mississippi, and Monroe County on White River, composed the 11th Dist. But subsequent to the adjournment of the military appointees constituting that Legislature, both of those politico-military 'divines' had removed to Little Rock. Mr. Brooks, as soon as the duration of his residence at Little Rock would permit, announced himself a candidate for the Senate from the Tenth District. There

was a majority of negroes in this district, and there was the faction headed by Catterson, Hodges, Hartman, and others, who would support him. But the missionary of Fairfield, Iowa, was destined to never *hold* an elective office again. He certainly believed he was afterwards *elected* to one other—that of Governor—and he offered very strong evidence to demonstrate it.

The first step in the preparation of his canvass was the establishment of the *Arkansas State Journal*, an extreme Republican organ, but devoting considerable space to colored religious revivals, and affairs of the A. M. E. Church. Its purpose to control the colored vote of the district needed no advertisement. An old man named Brayman was its practical or impractical manager, but Catterson, Hodges, and others were its advisory board. It charged the Governor with being a 'a deserter to the Democracy.' The percussion of the Governor's slap in the face of Catterson struck the spark, and the *Journal* trained the guns which startled the country with the conflict of force and fraud known as the 'Brooks and Baxter War.'

The election for one Senator from each district and Representatives, was to be held throughout the State on Tuesday, the 8th of November, 1870. At that election, by obtaining 'early' possession of the polls (5 o'clock a. m.), and securing *their* judges:

Foster, Bates, and Krull, in the First Ward; Brayman, Holland, and Devine, in the Third Ward, in Little Rock (negro strongholds); assisted in the country precincts, by George N. Perkins, colored, and Carter McClelland, colored, it seemed that Brooks for Senator, and Hodges and Hartman for Representatives, would defeat the Clayton candidates, Willshire Riley for the Senate; Goad, Pilkington, and Chamberlain for the House—some of each faction supporting Howard, Whitemore, and House, Democrats. There was but one Senator to be elected—Hon. Ozra A. Hadley, holding over. These several organizations became known as the 'Brindle Tails' and 'Minstrels,' respectively—names accepted by each, and used to distinguish them in subsequent proceedings in the Legislature.

Senator Duffie said in the Senate of the State:

"It is well known that there are three parties in this State: The State Administration, party called 'Minstrels'; part of the Republican party opposed to the Minstrels, popularly called the 'Brindle Tails,' and the Democratic party."

Upon the assembling of the legislature, Brooks claimed the election over Riley, and January 26th presented his credentials in the Senate and was promptly sworn in by the Lieutenant-Governor, Johnson, presiding over that body. But, by resolution of Senator Mal-

lory, January 31st, the Secretary was forbidden to enroll Brooks' name. On the 2d of February, however, he was conditionally admitted to the seat by resolution, reserving to Riley the right to contest it. The Senate chamber thenceforward resounded with the eloquence of the Reverend orator in maintaining his right to a seat. On the 8th of February, the Committee on Elections made their report in favor of Riley, who was seated, and Brooks unseated by the adoption of the report.

Associate Justice John McClure had been, by the Governor, appointed Chief Justice, *vice* Willshire resigned, and elected to Congress to fill vacancy caused by the death of Hines.

On the 30th of January, the Minstrel (Clayton) wing of the Republicans presented, in the House, resolutions of impeachment against James M. Johnson, Lieutenant-Governor, and ex-officio presiding officer of the Senate, upon the grave charge that he had 'sworn in and recognized Joseph Brooks as a Senator elect from the Tenth Senatorial District.' The accused was a native of Madison County, ex-Governor Murphy's county, formerly known as Dr. Johnson, a citizen Unionist, who had joined the Union army early in the war, and had become the colonel of a brigade of Arkansas Federals, and a trusted officer to the close of the war. The im-

peachment was not seriously pressed by the House. It was soon postponed indefinitely. The faction headed by Mr. Brooks took sides with the Lieutenant Governor, Johnson. It contained a sufficient number of Republicans in the House to pronounce the efforts of the Governor to deprive the Lieutenant-Governor of his rightful succession to the office of Governor, by proceedings for obtaining from the Judges of the Supreme Court a writ to restrain him from entering the office of Governor, as 'revolutionary' in its purposes, and a serious offence, which demanded the impeachment of the Governor, who had not yet resigned, to accept the office of Senator.

Accordingly, on the 16th of February, Mr. W. B. Padgett, of the House, from Independence County (Republican) presented a motion 'to impeach Gov. Powell Clayton of high crimes and misdemeanors, and to suspend him from the office of Governor.' The motion was agreed to—43 ayes to 33 nays—and managers were appointed to prepare articles of impeachment, 'and make good the same at the bar of the Senate.' The motion charged him with conspiring to deprive the Lieutenant-Governor of the office to which he was elected by the people; that he unlawfully removed certain officers of Clark County; that he encouraged frauds in the election

of Senators and Representatives from the Thirteenth District, composed of Hot Springs, Polk, Montgomery, and Scott counties; that he accepted pecuniary consideration for issuing railroad-aid bonds of the State issued to the Memphis & Little Rock, the Little Rock & Fort Smith, and the Mississippi, Ouachita & Red River Railroad Companies, in violation of law; that he committed other high crimes!

On the 17th of February the House refused to receive a message from him as Governor. On the same day it agreed to a motion for 'the impeachment of John McClure, a Justice of the Supreme Court of Arkansas of high crimes and misdemeanors, and to suspend him from office and, to appoint managers to prepare articles of impeachment against him, and make good the same, at the bar of the Senate.'

The motion specified that Judge McClure had 'conspired with Powell Clayton and others to deprive J. M. Johnson of his office of Lieutenant Governor; that he had *bargained for pay and bribes* to influence his actions and decisions as such Justice of the Supreme Court, and issued a *mandamus* to restrain the Lieutenant-Governor from acting as Governor when the office should be vacated by the present incumbent (Clayton); thereby attempting through one department to interfere with

a coördinate department in the discharge of its lawful functions.'

The vote in the House on the motion was 43 yeas, 33 nays—the Democrats coalescing with the ultras, or Brooks men.

A board of managers was appointed, who went to work earnestly, prepared articles of impeachment, and asked for authority from the Senate to cause the attendance of witnesses. They were foiled in their efforts to procure witnesses, and asked to be discharged, which was done March 2d, and a new board appointed.

March the 4th the new board reported that within the two days they had been unable to procure testimony to sustain the articles of impeachment against the Governor, and moved 'that further proceedings be suspended and the action of the House heretofore taken be dispensed with,' which report was adopted.

Upon the adoption of the report the members of the former board of managers voted 'no,' and offered their written explanation for their said vote, in which they say:

"We offered to furnish the new board with testimony to the perpetration of frauds by the Governor in Hot Springs County, and advised said board of testimony [to prove charges] in Memphis and New York, which that board declined to take time to procure; that Senators absented themselves from the Senate for several days, and thereby defeated the former board from securing the attendance of wit-

nesses, and adopted rules for that body designed to prevent an impartial investigation of the charges against his Excellency; and that all delays of the former board were owing to the action of his Excellency and his friends in the Senate.

"In our opinion said cause has been too hastily dismissed. We do not believe that the rights of the people have been vindicated, or the innocence of Powell Clayton established. We then believed he was guilty of the charges preferred against him, still believe it, and that ample testimony can be obtained to prove them."

Which was signed:

"D. J. Smith (Republican), Frank M. Thompson (Republican), W. B. Padgett (Republican), E. A. Fulton (colored Republican), Alex. Mason (Republican), B. B. Battle (Democrat)."

Immediately upon the adoption of the report to dispense with the impeachment proceedings against him, the Governor, or Senator elect, addressed a communication to the House stating that from the fact that 'a coalition had been formed of a few Republicans and the entire conservative element, he was unwilling, by any act of his, to place in the executive chair the leader of that coalition' (Lieutenant-Governor Johnson), and his duty compelled him to decline the position of United States Senator to which he had been elected.

The political game in which these two factions were contending with each other, both having a right to bear arms and exert 'force,' was becoming interesting. Governor Clayton was appealed to



not to leave his supporters naked to the "Brindles," by permitting Johnson to succeed him. He must not resign his office of Governor until Johnson could be disposed of. Now, Johnson was principally actuated by a desire to benefit Johnson himself. He accordingly accepted from the Governor the appointment of Secretary of State *vice* R. J. T. White, resigned, and upon the resignation by Johnson of the office of Lieutenant-Governor, Senator Ozra A. Hadley, of Little Rock (carpet-bagger), was elected President of the Senate. This was considered a masterstroke by the "Minstrels," and secretly approved by the "Brindles," as the Secretary of State, through his duty to canvass and make report of the result of the general State elections, was a most important officer in that era of fraudulent voting and false returns. The office paid better than that of Lieutenant-Governor. Nottill then would Clayton vacate his seat.

March 14th, ten days thereafter, a new election for Senator was agreed upon 'to fill the vacancy occasioned by his declination.' He was renominated, and on the 15th March, in joint session of the two houses declared duly elected Senator to represent the State in the Congress of the United States, and 'to fill the vacancy occasioned by the declination of the Honorable Powell Clayton.'

On the 17th March he sent in his resignation of the office of Governor, in the form of a message to the two houses, informing them that he had turned over to the President *pro tempore* of the Senate all the books and official records of the office of Governor of the State of Arkansas. The President of the Senate was to be the acting Governor during Clayton's unexpired term of Governor.

Senator Clayton, by the election of Hadley President *pro tempore* of the Senate, and acting Governor, proposed to continue his control over the State from his seat in the United States Senate.

A greater number of Democrats than ever before had found their way to seats in the present Legislature. They were on the alert, of course, to encourage divisions among their Republican adversaries. They coquetted skilfully with each side, while they loved neither. The power of their votes was manifested. They understood the principle of the maxim, "*Divide et impera.*" They thoroughly understood that they held the balance of power.

The leaders, among them were Messrs. Robt. A. Howard, of Pulaski County (Chairman Democratic State Central Committee); J. W. House, of White; J. M. Pettigrew, of Franklin; J. A. Meek, of Poinsett; W. H. Cate, of Craighead; E. P. Watson, of Boone; J. M. Pittman, of Washington;

John F. Owen, of Benton; B. B. Battle, of Hempstead; John J. Sumpter, of Hot Springs—Democrats—allied with Wm. B. Padgett, of Independence; Frank M. Thompson, of Columbia; Alex. E. Mason, of Calhoun; Moses Harvey, of Greene; E. A. Fulton (colored), of Drew—Republicans.

J. J. Sumpter had been counted out by the frauds charged against the Governor; but he and J. F. Lane were seated February 6th, and the three sitting Republican members unseated by the adoption of the minority report of the Committee of Elections of the House, by an emphatic majority.

The Governor, at his first election as United States Senator, had received the vote of many Conservatives. Their support was upon the principle of Grecian ostracism of those who were dangerous to the State, or obnoxious to the people. The motive that impelled them to give that support was not exactly the same that the Athenian avowed for plumping his shell in favor of banishing Aristides—"because he was tired of hearing him called 'The Just.'" Such motive was eloquently disclaimed. It was declared by the able and fearless young member of the House, Mr. House, from White County, in explanation of his vote for Clayton when, upon a second balloting for United States Senator, he withdrew his support from Clayton. I

preserved a copy of it, and will presently insert it in full.

At this juncture the Governor sent to each house of the General Assembly the following message:

"I am instructed by the Governor to inform your honorable body that he has this day, 10th March, approved and signed the proposed amendment to the [State] Constitution, which, if adopted, and ratified in the manner prescribed in Article Thirteen, shall hereafter be substituted for and known as Article Eight of the Constitution of the State of Arkansas.

"KEYES DANFORTH, Act'g Private Secy."

This was actual compliance with the declaration of the Governor's 'October speech' in front of the Capitol. Danforth had been Clayton's Adjutant General, an office which had been abolished by a bill introduced by John M. Clayton. But he had married the handsome daughter of the acting Governor, and was continued in office as private secretary of the acting Governor.

The proposed amendment was actually agreed to by the next succeeding legislature, and submitted by act of Jan. 23, 1873, and, being ratified by the people March 3, 1873, was substituted for and became Article Eight of Constitution of 1868. This Article removed all restrictions upon the exercise of the elective franchise, except for felonies of which the accused had been duly convicted, paupers, insane persons, etc.

This measure was by far the most

important that could have been demanded by the people. All needed reforms could be enacted by their true representatives after that. Changes in the election laws, choice of their own county officers (before made appointive by acts of the legislature), and ultimately those made the subject of executive appointment could be accomplished under this amendment to the constitution.

The explanation of the Conservative vote for Governor Clayton for Senator, was forcibly and accurately expressed by Hon. J. W. House, Conservative member from White County :

"I desire to say, that heretofore I have let the record explain my votes, and I am willing to-day to let that record stand as a living monument in all time to come, and as my platform with which I am willing to stand or fall. I did not explain my vote cast for Governor Clayton for the United States Senatorship, because my constituents, to whom I am alone responsible in my representative capacity, will understand my reason for casting that vote.

"It was not because I approved of Governor Clayton's administration. God forbid that I should ever approve of such an one! It was not because I loved Powell Clayton, but because I love my country more; not that I expected to gain any favor at the hands of his Excellency, but that I might be instrumental—that I might lend a helping hand for the relief of the oppressed, outraged and down-trodden people of the State of Arkansas. It was not that I expected he could do us any good in the United States Senate, but that I thought he could do us about as much harm in that body as the newsboys in the streets of New York City, or as the auctioneer in the stock-yards or

market-places of Paris, or as a door-keeper in the House of Commons of the Parliament of Great Britain.

"At that time I believed that Governor Clayton was guilty of malfeasance in office; of mal-administration; of high crimes and misdemeanors, and I am more thoroughly convinced of it now. I cannot say positively that he authorized, but there can be no doubt that he approved of the conduct of the militia in some sections of the country, where they robbed and plundered the best citizens, intimidated others and drove them from their workshops and other places of business, while other honest, quiet, inoffensive citizens, for no cause whatever, they took from their bed-sides and families, at the dark hour of midnight, and murdered in the most horrible manner, without jury or court. And to-day these very men, whose souls are blackened with crime, whose hands are stained with human gore, are held up, as I believe, by his Excellency, as the model men of the country, ready to do the same inhuman work at the mandate of their master. [Of the financial frauds he did not speak, because the testimony was wanting.]

"It has been said by Republicans, and even by Republican journals throughout this State, that Governor Clayton came down from his high official position, that he abandoned the gubernatorial chair, for a time, to manipulate and control the elections for his own selfish purposes, in order that he might be elected to the United States Senate; that hundreds of our most patriotic citizens, whose views were known to be opposed to Governor Clayton's, were refused registration for no legal cause whatever, is a fact too well known to even allude to. Then, in view of the fact that the Governor appointed these officers, and they have not even been rebuked by him, there is evidence to my mind that the charges are not false."

The trial of Chief Justice McClure before the Senate, composed of his coadjutors in the movement against the Lieutenant-Governor, was a travesty upon impeachment proceedings. Nothing else was expected. The Governor had satisfied the difficulty out of which it grew, by making the Lieutenant-Governor, Secretary of State. The impeachment was on the bills, however, and public curiosity, encouraged by the vanity of the actors, demanded that it be played out. It began on the 20th of March. Little John Whytock, appointed by the Governor, presided as Special Chief Justice. The Great Impeached, having opened the spectacle with an exhaustive 'statement' (argument) in his own behalf (having previously filed his '*demurrer*' to the articles of impeachment), and pleaded it 'in bar' of the impeachment. He explained, for the information of those who were not lawyers, "that the filing of the *demurrer* admitted all the *facts* stated in the articles to be *true*. The charge of the articles against me is, that I *unlawfully* issued a temporary restraining order against James M. Johnson. The question, as presented by the articles and demurrer, therefore, is, can an officer be impeached for an unlawful act which is unaccompanied with either an unlawful intent or a corrupt intent?" He cited *People v. Coon*, from 15 Wal., which held that the

magistrate must be charged with a corrupt motive, an intent to prevent the course of law and justice. Messrs. Willshire, Yonley, and Gantt, his counsel, multiplied precedents in support of this position. "The articles," they said, "were bad in substance, charging no offense," etc.

Mr. C. B. Neill, one of the House managers, in support of the articles, argued, that, under the Constitution, Art. vii., §2, any misconduct or mal-administration of a civil officer render him liable to impeachment and removal, whatever the intent. He cited the trial of Addison, Judge, Penn. St. Reports, and Peck's case, to show that abuse by an officer of the powers of his office, rendered him liable, regardless of the intent.

Upon the question presented by the special Chief Justice, 'whether the demurrer to the articles of impeachment exhibited against John McClure, Chief Justice of Arkansas, shall be sustained?' the Senate voted yeas, nineteen; nays, none. Thereupon his friend Whytock, presiding, announced, 'He will be acquitted.' He admitted the truth of the charges, but claimed that they did not describe an impeachable offense. The 'High Court of Impeachment' then proceeded to vote the injured, but innocent, victim of Brindle-Tail persecution two thousand dollars of the people's money to pay the costs, and ordered five thou-

sand copies of the report of the trial, containing, besides the proceedings proper, the full speeches of the eloquent counsel, to be printed by the contract printers, of whom the Chief Justice was one!

The Chief Justice had been an imposing figure during these historical and sensational events. He read an elaborate 'statement' in his own defense, which is, of course, a part of the published proceedings. His flowing beard hung over his breast, while he boldly defied his prosecutors. The many informal impeachments brought against him might be cheerfully dismissed with the result of this last arraignment. They were as plenteous and gross as those rained by Prince Hal upon Sir John Falstaff. Yet many willingly have entreated for him as Falstaff pleaded for himself: 'No, my good lord, banish Peto, banish Poins; but for honest Jack Falstaff, quaint Jack Falstaff, adroit Jack Falstaff,—banish *him* and banish all the world!'

And now that Gov. Clayton had secured his seat in the U. S. Senate; that the Chief Justice had come out of his impeachment trial 'acquitted'; now that the militiamen from Commander-in-chief to foot-burner, had been amnestied, and the Rev. Joseph Brooks had been relegated to the Ku-Kluxes, the victims were forgotten, while the victors were

honored, decorated, rewarded. Success, makes the hero; failure, the villain. Sainly capitalists, in gilded sanctuaries, thanked their God that, though paroles had been violated, prisoners murdered, women and children terrorized, fields and folds ravaged—yet that ends so profitable had been accomplished! The incompetent colored wards were not merely emancipated, but enfranchised to be made instruments for riveting the chains upon white labor. States, whose independence had been granted by the King, Lords, and Commons, in Parliament assembled, had been *coerced* to ratify an amendment that gave political ascendancy to African slaves over their former owners; that denied the right of suffrage to the remnants of the Aborigines and more intelligent Mongolians. Just so the Church bestowed the consecrated hat, and title of 'Defender of the Faith,' upon the cruel Duke of Alva, who could count his executions by the thousands, and confiscations by the millions.

Mr. Lincoln, if he had lived, would have ennobled his triumph, and perpetuated his party by loftier methods. He would have reconciled the sections by a candid appeal to justice—a loving 'charity for all; malice towards none.' He would have protected, instead of oppressed, and soothed rather than insulted. He would have strictly construed the funda-

mental law, while recognizing the 'importance of human development in its richest diversity.' When he fell a victim to the senseless assassin who (with the same motive) would have burned the temple of Diana, he had not finished his life-work. He, alone, could have pacified, restored and reunited.

NOTE.—That Mr. Lincoln's utmost wish was the restoration of the Union, as it was, (upon conditions that were the inevitable results of the conflict), is conclusively shown in the noted peace-conference at Hampton Roads, after Sherman's entry of Savannah. It was attended by Mr. Lincoln and Mr. Seward, his Secretary of State, on behalf of the United States, and by Mr. A. H. Stephens, Vice-President; John A. Campbell, Assistant Secretary of War, and R. M. T. Hunter, Senator, of the Confederate States. The last named were authorized by letter of Jefferson Davis of January 28, 1865, brought about by Francis P. Blair. The meeting was on board the *River Queen* February 3, 1865.

Mr. Lincoln, sustained by Mr. Seward, first stated his demands, which were substantially according to the following subdivisions:

1. As to *restoration* of the Union, it could only follow the disbanding of the armies of the insurgents and permitting the national authorities to resume their functions. He expressed it as his *opinion* that thereupon the Southern States ought to be and would be admitted to representation in the Congress of the United States, but could not enter into any *stipulations* on that subject; that when resistance ceased the States would be immediately restored to their practical relations within the Union.

2. Upon the subject of *confiscation*, he said the confiscation acts left the control en-

tirely to him, and he could state explicitly, that he would exercise the power with the utmost liberality.

3. The *emancipation proclamation*, he said, was a judicial question. His opinion was, that as the proclamation was a *war measure*, as soon as the war ceased it would be *inoperative* for the future. "It would be held to apply only to such slaves as had come under its operation, while it was *in active exercise*"—"that he would leave it to the courts to decide, and would never change its terms in the slightest particular; that he never would have interfered with slavery in the States unless he had been driven to it by a public necessity. He had always himself been in favor of emancipation, but not *immediate* emancipation, even by the States. Many evils attending this appeared to him." He went on to say, that "he would be willing to be *taxed to remunerate* the Southern people for *their slaves*. He believed the people of the *North* were as *responsible* for slavery as the people of the *South*, and *if* the war should cease with the *voluntary abolition* of slavery by the States, he should be in favor himself of paying a *fair indemnity* to the owners. He could mention persons whose names (Horace Greely was one) would cause astonishment, who were willing to do this, if the war should now cease with the abolition of slavery, and were in favor of an appropriation of *four hundred millions* for that purpose." But on this subject he spoke his own mind merely; could give *no assurance*.

Mr. Secretary Seward then mentioned the proposed *Thirteenth Amendment* abolishing slavery, introduced in Congress a few days before (having been voted down by the House at the preceding session), and said, as it may be supposed that wily statesman was capable of saying, *diplomatically*: "If the South will submit and agree to immediate restoration, the *restored States might yet defeat it*," as without some of them, the requisite three-

fourths could not be obtained; intimating that the amendment had been passed by Congress "under the predominance of revolutionary passion."—(*Stevens' War between the States; Campbell's Recollections.*)

Gen. Grant's fidelity and magnanimity were proven on this historical occasion. He paid no heed to the proposals of the Confederate Commissioners, that *he* and *Gen. Lee*, during an armistice, should agree upon a peace settlement. The Commissioners had been turned back by Mr. Lincoln. Maj. Eckert, the President's messenger, had reported to him that they did "not talk right." But Grant, hearing of the President's refusal to receive them, telegraphed the Secretary of War February 1, 1865, a dispatch, which was immediately seen by Mr. Lincoln, and decided him to meet the Commissioners in person. The dispatch was as follows:

"I am convinced, upon conversation with Messrs. Hunter and Stephens, of their sincere desire to restore peace and union. I recognize the difficulty of receiving these informal Commissioners, but am sorry that Mr. Lincoln cannot have an interview with the two named, if not all three, now within our lines. U. S. GRANT, Lieut.-Gen."—(*House Proceedings, Second Session, 38th Congress.*)

This was about two months before the Surrender, when Grant had the Confederacy in his grasp, and he would thus forego the triumph at Appomattox.

"There were four persons present at the Conference held at City Point on the 28th of March, 1865. They were Lincoln, Grant, Sherman and Admiral Porter. It was before these men that Lincoln freely discussed the question of ending the war, and in Sherman's Memoirs he says: 'Mr. Lincoln was full and frank in his conversation, assuring me that in his mind he was all ready for the civil reorganization of affairs at the South as soon as the war was over.' Had Lincoln stopped with the general assurance of his purpose to

restore the South to civil government, it might be plausible to assume that Sherman misinterpreted his expressions, but Sherman adds the following positive statement: 'He (Lincoln) distinctly authorized me to assure Gov. Vance and the people of North Carolina that as soon as the rebel armies laid down their arms and resumed their civil pursuits they would at once be guaranteed all their rights as citizens of a common country; and that to avoid anarchy the State Governments then in existence, with their civil functionaries, would be recognized by him as the Governments de facto till Congress could provide others.' There was no possibility for Sherman to mistake this expression of Lincoln. He was distinctly instructed to assure the Government of North Carolina, the State in which Sherman's army was then operating, that upon the surrender of the insurgent forces all would be guaranteed their rights as citizens, and the civil governments then in existence would be recognized by Lincoln. There was no chance for misunderstanding on this point.

"He refrained from emancipation for eighteen months after the war had begun, simply because he believed during that time that he might best save the Union by saving slavery, and had the development of events proved that belief to be correct he would have permitted slavery to live with the Union. When he became fully convinced that the safety of the Government demanded the destruction of slavery, he decided, after the most patient and exhaustive consideration of the subject, to proclaim his emancipation policy. It was not founded solely, or even chiefly on the sentiment of hostility to slavery. If it had been, the proclamation would have declared slavery abolished in every State in the Union; but he excluded the slave states of Delaware, Maryland, Tennessee and Missouri, and certain parishes in Louisiana, and certain counties in Virginia, from the operation of the

proclamation, declaring in the instrument that has now become immortal, 'which excepted parts are for the present left precisely as if this proclamation were not issued.'

"But while he was compelled to accept the issue of revolutionary emancipation, he never abandoned the idea of compensated emancipation until the final overthrow of Lee's army in 1865. He proposed it to his cabinet in February of that year, only to be unanimously rejected, and I personally know that he would have suggested it to Stephens, Campbell and Hunter at the Hampton Roads conference in February, 1865, had not Vice-President Stephens, as the immediate representative of Jefferson Davis, frankly stated at the outset that he was instructed not to entertain or discuss any proposition that did not recognize the perpetuity of the Confederacy.

"In a personal interview with Jefferson Davis, when I was a visitor in his house at Beauvoir, Miss., fifteen years after the close of the war, I asked him whether he had ever received any intimation about Lincoln's desire to close the war by the payment of \$400,000,000 for emancipated slaves. He said that he had not heard of it. I asked him whether he would have given such instructions to Stephens if he had possessed knowledge of the fact. He answered that he could not have given Stephens any other instructions than he did under the circumstances, because, as President of the Confederacy, he could not entertain any question involving its dissolution, that being a subject entirely for the States themselves."—*A. K. McClure in Globe-Democrat.*

At no time did Mr. Lincoln indulge any false sentiment or make any false pretense with regard to the estimate he held of the people of African descent. He knew them from his boyhood. He was opposed to their forced servitude upon principle. But recognized it as lawful, only stipulating through his

fidelity to law, that it should be confined to the States in which it existed, until the people of those States should voluntarily abolish it. If there were those among them of mixed blood, who displayed mental gifts beyond the average powers (and he did not deny them mental endowments), he understood the abnormal developments arising from a blending of the species which did not apply generally, and announced, 'There is a physical difference between the two races which, in my judgment, will forever forbid their living together on a footing of perfect equality.' He repelled the charge that his party favored miscegenation. He declared, on repeated occasions, particularly in a speech at his home, the capital of Illinois: 'There is a natural disgust in the minds of nearly all white people at the idea of an indiscriminate amalgamation of the white and black races.' He was familiar with their history and that of their ancestors. He realized that they remain as they were before the thunder of Sinai was echoed by Abba Yared; before the pyramids; before Thebes and its Prince Memnon, who led them in hosts to the support of the cause of Troy. This was in the dawn of enlightenment, which shone thus early upon a part of Africa, many tedious ages before it burst across the Atlantic, upon the Alleghanies and the Andes, and revealed the graces of drapery and religion to Pocahontas, and the mysteries of bi-metalism to Montezuma and the Incas.

Mr. Lincoln had always dwelt upon the first clause of the Declaration of American Independence: "We hold these truths to be self-evident—that all men are created (not born) equal, endowed by their Creator with certain inalienable rights, and among these are life, liberty and the pursuit of happiness."

Rousseau's *Du Contrat Social* expressed the principle quite differently, and his philosophy went farther than Henry George, in asserting that the land, as the air, belongs



equally to all. He taught in his *Contrat Social* and his *Discours*, that:

(1) "All men are *born* free; politically equal, and *good*; consequently, it is their natural right to be free, equal, and good.

(2) "All men being equal by natural right none can have any right to encroach on another's equal right. Hence no man can appropriate any part of the common means of subsistence—that is to say, the land, or anything that the land produces—without the unanimous consent of all."

Now the truth is, that human beings are 'born' helpless infants, and are under tutelage until 'created,' or grown to be, men. Then they acquire their 'inalienable rights.'

Sir Henry Maine, in his work on Ancient Law, says that the "Strictly judicial axiom of the lawyers of the Antonine era, *Omnes homines naturi aequales sunt*, after passing through the hands of Rousseau, and being adopted by the founders of the Constitution of the United States, returned to France endowed with vastly greater energy and dignity. and that, of all the principles of 1776, it has been the one which most thoroughly leavened modern opinion."

But the African slave was supposed not to have grown to manhood. He was not intended to be included in the Declaration, if the Supreme Court of the United States (not Chief Justice Taney—but the Court) understood that instrument, and the Constitution framed under it. That Court said in the Dred Scott case, as showing how the negro was regarded in '76:

"It is difficult at this day, to realize the state of public opinion, in relation to that unfortunate race, which prevailed in the enlightened portions of the world at the time of the Declaration of Independence, and when the constitution was framed and adopted.

"They had, for a century or more, been regarded as beings of an inferior order, unfit to

associate with the white race, either in social or political relations."

They were in their nonage. They will not become men, in a republic, until they can take positions in regard to their own interests intelligently and independently. H.

#### SIXTH PAPER.

"O from his masterful sweep, the warning cry of the eagle!—  
(Give way there, all! It is useless; give up your spoils!)  
O sarcasms, propositions! (O if the whole world should prove indeed a sham, a sell!)"

—Walt Whitman.

The recommendation of the party leaders, that all Democrats qualify under the franchise clause of the State Constitution, produced an immediate split in the Republican organization. It was about to widen into complete disruption. Opponents to that recommendation, among them Gen. Albert Pike, had been technically correct in denying the validity of the military bills of Congress and State Constitutions enforced under these bills. Imposed upon the Southern States by the "Supreme Power," the sword, they yet contained this franchise clause to redeem them from absolute despotism, under which all who were heretofore citizens, with a few exceptions, might become voters.

A people by heredity and training educated to self-government were not slow to perceive that the offer contained the only escape

from the perpetuation of Republican one-man power. Armed with the ballot they might, with hope, enter a contest against force and fraud and encourage tendencies in government that elevate and condemn those which demoralize. It was a question of free institutions and equal citizenship or surrender to an oligarchy erected and sustained by speculation and dishonor. Any great moral cause will overcome one that corrupts. It is a universal law that leads us to prefer the best.

Liberty Bartlett and John Edwards issued the call for a "Liberal Republican" Convention as an appeal to that powerful conservative element which is to be found in all communities and was rapidly growing under the committee's recommendation. We have seen that Powell Clayton and Thomas M. Bowen had realized the danger of this movement and taken timely steps to out-bid it. Rice, Brooks, Whipple, Catterson and others were not to be so readily awakened. They dreamed of a "loyal" carpet-bag oligarchy founded upon negro suffrage. They entertained false sentiments and erroneous estimates in regard to the negro. They did not then suspect that their visions were as unsubstantial as if they had entered a zoological garden to hold it against the proprietors, by liberating the animals. Only "Ku-

Kluxes" could save *them* from such a peril.

Confident of their strength, they denounced the "State House ring" as meditating a betrayal of *the party* to the Democracy by proposing liberal measures. They were not the last to propose. Not only did Catterson charge Clayton to his face that he was attempting "to sell out to the Democracy"—the same maneuver he and his confreres attempted a few years later; but Whipple caused Clayton to be indicted by a United States grand jury for alleged violations of the election laws. Rice, Brooks, Whipple and Catterson went before the committee of the House of Representatives, at Washington, and induced it to report against Edwards who had received Clayton's certificate of election; whereupon the House declared Boles entitled to the seat. Affiliating with James M. Johnson and other irreconcilables (encouraged by the Democrats), we have seen how they impeached and stigmatized Clayton and McClure. They caused an investigation of the circumstances of Clayton's election to the Senate.

Not until they fell under the ban of the President and the reproof of the Senate, did they realize that *they* were *not* "the party" in the State—the original patentees, entitled to its royalties. Then, frantic with desire for *self-preservation*, they discovered the

growing strength of the conservatives. They reluctantly gave up the Union Leagues; but not until the Union Leagues had abandoned them. Of all which the people were well informed.

Senator B. F. Rice had been elected by the first reconstruction Legislature for the "long term." His successor would not be elected until 1874. He took sides with Brooks, Hodges and Whipple. Senator Clayton, his newly elected colleague, made him the object of most withering denunciations in speeches reported by Pomeroy, and which are reproduced in this paper. He conducted the Senatorial investigation against Clayton, upon charges of improperly securing his election to the Senate. He was a lawyer of ability and was admitted on the "ground floor"—as a charter member—in the State Republican organization of 1869. Lawyers are said to be necessary evils. In the reconstruction of a State, one lawyer at least became an indispensable accessory. He was a native of New York State, but came to Arkansas from Texas. He had practiced law in Kentucky before going to Texas. He was a large man, past the middle age, with a large head on stooping shoulders, rather rachitic in pose and motion. His gray eyes flashed an inquiring glance from under shaggy brows. His voice was *fine* as a girl's, with the quaver of adolescence or old age, and he

repeated his phrases, with something of a stammer.

His colleague, Senator Clayton, described this stammer, and gave a history of the cause of his leaving Kentucky, in the bitter denunciations he heaped upon him in the course of the ensuing campaign, or "Presidential," as Walt Whitman, the poet, names our quadrennial presidential elections. The "Presidential" of 1872 seemed a poor, blundering, disappointing "Presidential" to the people of Arkansas at the time. *Di meliora*, however, for when its results were all realized, it was known to have accomplished their grandest deliverance. It unfolded like a drama.

Senator Rice, as did Mr. Brooks, entertained the idea that the *freedmen* would be everlastingly grateful to any and all persons who presented themselves as Republicans, and therefore benefactors of their race. He believed it would be inexcusable stupidity to train without them. "The race" was the fad of the day. The Brindles were especially loud in their protestations of love for the freedmen, and were continually pronouncing the *shibboleths* of "Brotherhood of men," "Equality before the law," and the like. It was painful to witness, in the face of this tender solicitude, the heartless and ungrateful beneficiaries fall away from their *benefactors in mass* as soon as it became

known to them that the official heads of Brooks, Catterson and Whipple had fallen into the President's little basket. Grant indulged *no fads*.

A few of the old-time colored followers of Mr. Brooks seemed to adhere to him—Jack Agery, Tabbs Gross, Carter McClellan, George Perkins and Jerome Lewis. But "Judge" Gibbs, colored, more politic and far-seeing, said "those negroes were kept for *decoys*; a blind duck could see they were painted wood." The body of the colored people realized that their liberation had been the god-send of circumstances, the *deus ex machina* of war, and that their once worshipped gods were only idols of clay, or as they expressed it, "their name was mud." As Dagonet, at the fountain of wine, so they drank and found:

"The cup was gold, the draught was mud."

Under the new system of pretended protection, they, with all the tillers of the ground, were doomed to *mud* indefinitely. They became its "mud-sills." In the land of cotton, "simmon-seed and sandy bottom," they were the *base* of the superstructure, which, by its meretricious splendor, was dazzling the nations. England, from her moated castle, like a robber-baron of old, *forces* trade, and levies toll upon Asiatic and African "barbarians," yet spares her subjects at home unequal exactions.

Prone upon the freedmen are their former owners, almost as helpless, groaning under the weight of the merchant. Pressing upon the merchant are the railroads and their magnates; and upon *them* rest the steel and iron and other manufacturers, a gigantic combination. Forming the cloud-capped towers of the superstructure are the millionaire bankers and brokers, bondholders, pensioners and royalty-aping Executives and their ministers, all dominated by the money-lenders of London and Paris and Frankfort. These are the new *owners* of the freedmen, for sale again under the hammer of the stock exchanges.

Rev. John Peyton refused to follow Mr. Brooks. He declared his allegiance to the "ring."

"I views 'em all as rings," he said. "Mr. Brooks may not be in it; but Senator Rice, Mr. Roots, Hodges and Weeks is a nudder ring, ov coase. De State House ring is 'stained by de gubment. De gubment's got de power. We'll jess do what hit sez. I doan want teh be a prodigal son, an' eat roas'n eahs behin' de fiel', when I ken stay in de house an' git meat an' mellassis."

Mr. Brooks explained that he was aware of the disposition of the colored people to attach themselves to those in power. He so declared in the first speech he made after he was voted out of the State Senate, and removed from

his Collector's office. He delivered it at the City Hall, in Little Rock, March 2, 1872. The Democratic "organ" called it "The First Gun of the Campaign." Mr. Brooks commenced by saying:

"Parties are not iron bedsteads [alluding to that of the fabled Procrustes, though in the ancient legend, it was the *individual*, and not the bed, that was made adjustable] to be shortened or lengthened to suit the circumstances or wishes of individuals. The relation of parties to the *people* are analogous to the relations of man and Christian Sabbath! Jesus said to the Pharisees, 'Man is not made for the sabbath; the sabbath is made for man.' Man was made first. So with parties. The people are not made for party but the party for the people. All parties are mutable.

"Men have been raised to power in Arkansas who had *no* Republican principles in 1860, although in Kansas, [alluding to Clayton] at that time and place of creative forces. Men now claim to belong to it who did not believe in negro suffrage in 1866! *We* raised some such to power, God forgive us! and put them on the Supreme Court bench, and in the Executive chair! Some of these men think they own the party—keep it in their breeches pocket. When *this* state of affairs exists, it becomes the duty of the people to overthrow it.

"The party is made for the people, not the people for the party. The Republican party was not made for the base uses to which it is being put in this State. The men *who* organized it, built it up for the vindication of holy principles, and sealed it with their blood [on White river, where he was wounded and Hinds killed] that the people might be benefited.

"Let no man suppose this to be a tirade against party organization, or against the Re-

publican party. When I hear men denounced for stealing levee bonds, for getting rich through official speculation, I do not think *my* party attacked.—[Both were always equally impeccable]. A few of us went to Washington in December last, to prosecute the claims of the Third Congressional District representation. The House finally judged the evidence, taken before Judge Whytock, to be sufficient to eject Edwards and seat Boles. The evidence in favor of Boles was overwhelming. We showed that we had beat the Clayton clique, notwithstanding their ballot-box stuffing, by 2100 votes. And yet Boles did not get the certificate from the Governor! We spent time and money, not ill-gotten money, not money from levee bonds, or from railroad aid bonds. Our 'ring' never had a *State aid* bond. We spent time and money, and it *panned out* all right. Boles was given the seat that Clayton had swindled him out of. Not even poor, contemptible Snyder dared say 'no', when the vote was taken. It was unanimous for Boles without regard to party. I believe that the suspension of Caterson and Whipple will be revoked, and the new appointees in their stead will not be confirmed.

[The speaker made no reference at that time to his own suspension from the office of Revenue Collector by Grant].

"Whipple and Wheeler were summoned to Washington to testify relative to 'Southern outrages.' Their testimony made it incumbent on the Senate to investigate the matter of Clayton's election to that body. Should the Senate not see fit to remove him, I will try, as an humble citizen, to bear the fearful disgrace to the State, to the end of his term.

"But to turn to the future. In a few months we shall be engaged in electing a President and *new* State, county and municipal officers. I believe we shall march forward in the application of the great principles of equality of

all men before the law. Look at the 'Republican' Clayton's organ, and its parenthetical exclamation points, when referring to 'honest men for office.' Just as women, sceptical of female chastity, are by common consent, set down as of shaky virtue, so we suspect the honesty of men who thus scoff at the idea of political virtue. They are themselves thieves! \* \* \*

"We are in favor of a fair registration and an honest count. Such men as the 'accidental' Governor, [Hadley] would not hesitate to throw out Republican votes as well as Democratic, to forward his purposes. Aye! it has been done in this State. It has been said by a man who I believe is in this audience, that Hadley will count himself and followers in, next fall. *Colored men* have been thus led to support Hadley, and join the ranks of Clayton, not that they believe in him, but that they feared the certainty of being counted out, *left out in the cold*. I do not wish to be considered profane, but I say to Hadley and Clayton: *Count me out and be damned!* \* \* \*

"No, fellow-citizens, the man who receives the nomination of this clique for Governor or any office will be *beat*! If I was nominated for an office, I should like to be *elected*. I will have nothing to do with the thieves. This is a fight for *life and liberty*! If I cannot be elected on a platform of honesty, I won't be elected at all. If I am, it will be on a platform hostile to the present thieving in high places!"

The orator was at his best. His powerful voice, always audible for squares in its highest cadences, shook the building and thrilled like a lion's roar. His sallow, massive features, with their grim expressions, suited the earnestness of his utterances. The audience, composed mostly of Dem-

ocrats, crowded the house to the walls, and from the rising seats, cheered him with ecstasies of delight. There were many "Liberal Republicans" in the crowd, who wore expressions of mingled pleasure and dismay. The ponderous, but jovial Toot Dillon shouted "give 'em fits, Parson!" Tom Henneberry and Geo. McDiarmid pressed clear to the platform, and shouted themselves hoarse.

The war of the factions was on. The Liberals had burned their bridges; they were in the fight to a finish. The humblest Democrat knew that it meant the overthrow of Republicanism. Howard and Nash, of the Democratic Central Committee, ex-members of the staff of Gen. Frederick Steele; the former prepared for the bar in the law office of Edwin M. Stanton, Lincoln's Secretary of War; looked on from the back benches, with smiles of anticipated triumph.

The newspapers carried on the controversy with even greater bitterness. On the 13th March, 1872, "The Journal," organ of the Brindles, published a communication signed "Arkansas," containing specific accusations.

"In the Clayton investigation, in the United States Senate, it was shown that when the Lieut. Governor, [Johnson] was made Secretary of State, and got out of the way, and Clayton secured his own election to the Senate, and the State government was turned over to O. A. Hadley, the latter carried out all the plans, and made good all *the contracts*, entered

into by Clayton to secure his seat in the Senate. McClure drafted and had charge of the original levee bill; Stoddard of the National Bank and his friends manipulated the bill through, by direct bribery and open bargain and sale. There was paid \$25,000 to an attorney; \$20,000 for a signature to the bill; \$3,000 cash and \$25,000 in State bonds to a Senator for advocating it. An Associate Justice of the Supreme Court got \$35,000 for obtaining State aid to a particular railroad, and he did not 'divide.' An engineer got \$5,000 for a single night's work, black-mailing contractors on another road. And that, in almost every case, these men are now administering the laws, and filling offices under the Clayton-Hadley administration!"

The "Minstrel" organ retorted, "that Brooks got \$25,000 out of the Holford bond steal for advocating that measure, after he had for a time pretended to oppose it. And being so bribed, he thenceforth became the champion of the Holford bond measure on the floor of the House, until its adoption. That Rice gobbled all the levee bonds."

William G. Whipple had been appointed by President Grant United States Attorney for the Eastern District of Arkansas, *vice* Orville Jennings, deceased. He claimed descent from William Whipple, "one of the signers" of the Declaration of Independence. The descendant was imbued with but little of the catholicity of that instrument. He was a modern Saul of Tarsus, had a rabid hatred of "rebels," and was a fanatical idolator of any "image of God"

that was "carved in ebony." The intelligence that Clayton was "about to sell out the Republican party, negroes and all to Democracy," moved the bowels of his compassion, for the *poor, colored people*. As law officer of the United States Courts, he prepared the indictment against Clayton, charging Clayton with some criminal interference in certain election frauds and issuing a false certificate of election to Edwards, as Representative in Congress, over Boles, to which reference was made by Brooks in his City Hall speech. Through the efforts of Brooks, Rice and Whipple, Edwards was unseated and Boles was declared elected by the Republican House of Representatives. Brooks, Whipple and Rice also brought accusations against Clayton, impeaching the fairness of his election to the United States Senate, with such earnest confidence that Clayton was driven to demand an investigation by a committee of that body. Catterson, the United States Marshal, acted with them also against Clayton.

Judge Dillon, on demurrer declared the indictments against Clayton insufficient. The President thereupon suspended Brooks, Whipple and Catterson from office, and nominated others in their places. They had entered the war against Clayton, had lost, and suffered official extermination *a la* Japanese, as a consequence. Grant

had no love for those philanthropists, pretended negro-worshippers. Their hypocrisy had brought on a cruel war, of the horrors of which he had himself sickened, although conducting it on the side which they encouraged with paper pellets of the brain and windy words.

The Democrats witnessed the decapitations of the "faithful" with half suppressed expressions of pleasure, though they had no love for Clayton or his man Friday, Acting Governor Hadley. So the *Gazette*, Democratic organ, without much dissimulation, could vilify Hadley for any cause, and on every pretext. He had written a letter to Clayton, doubtless rehearsed privately by him and Clayton, to demand of the President the removal of Whipple and Catterson. The *Gazette* took occasion to lay the matter before the public in the following article:

"The most important point made by Acting Governor Hadley in his recent villainous letter to Senator Clayton, May 15, 1872, asking the removal of Whipple and Catterson, is that some members of the grand jury of the United States court were *Democrats*, or those who were *not*, were personal enemies of the ex-governor.

"It may not be inappropriate to publish a list of that grand jury which found the indictments, (and there were several) against Governor Clayton. Here they are:

"J. Clark Wheeler, Oscar M. Spellman, Anthony Hinkle, Joe Demby, Nathan S. Rawlings, John Tatum, W. H. Stanbury, Edward Wheeler, Edward Stowell, O. S.

Dillon, Geo. Kingsbury, J. W. Beidleman, Geo. E. Blackburn, William Cook, S. S. Sweet, Henry Rudd, T. L. Alder, Fred Kramer, M. C. Rerdell, R. F. Sayward, Jacob Copeland.

"If we mistake not, two only of the above list are Democrats (Cook and Sayward), and Sayward was a Union soldier. Cook a neutral."

Disaffection in the party grew apace.

April 6th, the Republican State Central Committee met by appointment, and the Brindles again reported that, "On counting noses, they had five members, and the Minstrels had only four, whereupon the latter *withdrew*. Then the Committee proceeded to declare vacant the places of the four *seceders*, viz: O. A. Hadley, John McClure, Geo. S. Scott and W. W. Wilshire. They elected in the places of two of them, Thomas Boles and E. A. Fulton (colored)."

This action was followed by a grand street *ovation*, in front of the Metropolitan Hotel, in which Joseph Brooks, Thomas Boles, Gen. Geo. W. McLane, Logan H. Roots, John A. Williams and W. J. Hynes took part, pledging themselves to support the action of the Committee, and denouncing the "Minstrels" in the roundest terms.

The *Gazette* thus describes the conclusion of the symposium:

"Ex-Rev. John M. Bradley, at the close, mounted the goods-box which served as a *rostrum*. He began a speech in reply to the 'Brindle' orators. Some one from a third-story window, presumably a 'Brindle,' threw an earthenware vessel and its contents upon



the reverend orator, dislodging him from his stand. Mr. Brooks, seeing that Bradley was unhurt, said, with his terrible smile, 'Let justice be done, though the heavens fall!' It was the only attempt at humor ever made by Mr. Brooks. The crowd jeered. Bradley was 'full,' of humor at least, and replied, 'But h—ll's falling in the shape of washbowls, when devils throw them.'

The bolting committeemen of the Clayton faction called a meeting immediately, with six members present. They proceeded to organize a new "Republican State Committee." The new committee adopted a call for a "Republican" State Convention at Little Rock, on the 18th May, 1872, on the basis of the party "vote" in 1870. The call announced, that it was "for the election of a Republican State Central Committee, and to appoint delegates to the Republican National Convention, and for such purposes only."

The old Republican Committee, now composed solely of Brindles, had already called a Republican State Convention, at Little Rock, on the 22d May, 1872, for the purpose, as announced in the call, of *nominating a State ticket* for the coming general election, and appointing delegates to the *Republican National Convention*.

The *State Journal* announced, April 11th, that Hon. Joseph Brooks and Col. John A. Williams, of Pine Bluff, would address the people at various appointments, mentioned, in South Arkansas.

They challenged "The advocates and defenders of the corruptions of the State administration and enemies of universal suffrage, universal amnesty and honest men for office, to meet them as these, at such appointments." No one responded. They made their canvass unopposed. The *Gazette* of May the 15th, thus comments upon the result of that canvass:

"Judging from reports received from South Arkansas, the canvass of Mr. Brooks has proven unprofitable to him. He has lost much of the white strength of the Republicans in that section, while he has failed to make any breach among the colored people. He has lost the strongest support he had in Columbia county, 'The Magnolia Flower,' which had his name flying at the head of that paper, for the last eight months, has taken it down in its last issue. The Archers, Frank M. Thompson and others, were great champions of Mr. Brooks. That they should go back on him, is significant.

"While Mr. Brooks has been very severe against the State administration, he has not said one word against the meretricious policy, of the national administration. Though he and Catterson and Whipple had their official heads cut off by the President, for the stand they had taken against the Clayton party, they have palliated the conduct of the President, and thereby failed to attract to their support the 'Liberal Republican' element of the State.

"Overlooking this element, Mr. Brooks has made a fatuous advance to the colored men. He has borrowed Sumner's civil rights idea, and wasted time in trying to impress them with the notion that they are badly treated, and never will be the political equals of the whites, until they enjoy social equality by law of Congress, for that is the meaning of Sum-

ner's bill. The negroes turn a deaf ear to Brooks as an apostate from their cause; but the whites listen and lose confidence in him as a man or a politician."

There is no doubt but that these comments threw some light upon the unexplored pathway Brooks had chosen, and aided him in determining his subsequent course. About this time, all was not placid in the current events upon which the "Minstrel" organization was being borne. Another Minstrel daily paper was talked of. It was to be published to advance the pretensions of Maj. Gen. Upham, who had gubernatorial aspirations. Hadley's party fealty was openly questioned. Of Upham, a certain wing had no fears. Upham did not believe in conciliating the whites. He was in favor of ignoring the rebel whites entirely, and exterminating them. Hadley was said to be meditating a sale of the party for the price of a seat in the Senatorial chair occasioned by Senator Rice soon to be vacated. But McClure said he was promised the seat occupied by Rice, if a Republican legislature should be elected. And every means had been taken to secure such a legislature.

Also at this time there loomed up in the East a supposed railroad builder, who was seemingly engaged in constructing a narrow-gauge road from Helena, on the Mississippi River, to White River, somewhere. It was never ascer-

tained precisely where it would terminate. It was, in fact, then but "two short streaks of rust" that ended in "moonshine." The promotor of this great enterprise was Mr. Stephen W. Dorsey. He had been educated at Oberlin, Ohio, in the mixed, or colored college, and was said to have been a janitor and rung the bell of that institution. He was an officer in the Union army, it was said, and had made a "barrel of money." The estimate of his boodle was up in the millions. He attended the meeting of the legislature, moved about mysteriously among the members, and soon had them under favor to him, for timely advances, quite a following of members of all parties. And so it was, that neither Hadley nor McClure was elected Senator. But this is anticipating.

The Republican (Minstrel) Convention met, according to call, at Little Rock, on the 18th May, and elected the following delegates to the Philadelphia convention: Powell Clayton, O. A. Hadley, W. H. Grey (colored), delegates *at large*; Elisha Baxter, Stephen W. Wheeler, J. H. Johnson, *First District*; O. P. Snyder, H. A. Millen, T. V. Rankin, *Second District*; J. M. Johnson, H. H. White, E. J. Searle, *Third District*.

In reforming their State Central Committee, the Minstrel Convention left off all those who had seceded and sided with Brooks.

It appointed an Executive Committee, chosen from the Central Committee, viz: Powell Clayton, J. T. White, D. P. Beldin, E. D. Ham and H. B. Robinson.

It became apparent that the Brindles were organizing to co-operate with the Liberal Republican party in support of any ticket, that might be nominated, "to beat Grant," and there were many indications pointing to Horace Greeley, of the *New York Tribune*, as the head of such a ticket. The movement gave little uneasiness to the regular Republicans. Mr. Greeley, like Mr. Brooks, had exhaled himself, as it were. In his exaggerated enthusiasm heretofore in the cause of abolition, now the negroes were freed, there was nothing left of him, which they could hope to profit by. His transitions were admitted to be sincere, but were so contradictory as to be confusing. A protectionist, Know-Nothing, a Son of Liberty, he was found devoting his great powers as an editor, to the support of policies which invited foreign artisans to compete with native wage-workers; to measures which levied tribute upon slave labor and made it harder on the slave; that opposed extension of territory, ostensibly against slavery, but in the interest of Eastern capital and desire of control. He venerated the institutions of the mother country, where you must not fish, and poaching is punished

by transportation, and yet whose policy was "free trade," and acquisition of territory in every land and clime. Was it that his myopic vision would not let him perceive that expansion of territory and commercial rivalry were the safety-valves of a Republic like ours? preventive of too rapid immigration, with its un-American tendencies? Or was he but a servile minister to the wishes of those who wielded financial and political influence, that hesitated at no device to carry their mercenary ends?

These persons abandoned him the instant he ceased to serve them. Because of the most Christian act of his life, he was disowned by his brother philanthropists, and denounced by the party which he had labored to organize and to which he had given the vigor of his manhood. That party, like the Frankenstein monster, terrorized and finally destroyed him. But he died game, and shouted defiance to the last, as shown by the following letter:

"NEW YORK DAILY TRIBUNE, May 23, 1867. By these Presents Greeting: To Messrs. George W. Blunt, John A. Kennedy, John O. Stone, Stephen Hyatt, and thirty others, members of the Union League Club: GENTLEMEN—I was favored on the 16th inst., by an official note from our ever-courteous President, John Jay, notifying me that a requisition had been presented to him for a special meeting of the club at an early day for the purpose of taking into consideration the conduct of Horace Greeley, a member of the club, who

has become a bondsman for Jefferson Davis,  
late chief officer of the Rebel Govern-  
ment. \* \* \*

Gentlemen, I shall not attend your meeting this evening. I have an engagement out of town, and shall keep it. I do not recognize you as capable of judging or even fully appreciating me. You evidently regard me as a weak sentimentalist, misled by a maudlin philosophy. \* \* \*

I tell you here that out of a life earnestly devoted to the good of human kind your children will select my going to Richmond and signing that bail bond as the wisest act, and will feel that it did more for freedom and humanity than all of you were competent to do, though you had lived to the age of Methuselah.

I ask nothing of you, then, but that you proceed to your end by a direct, frank, manly way. Don't slide off into a mild resolution of censure, but move the expulsion which you proposed, and which I deserve, if I deserve any reproach whatever. All I care is that you make this a square stand-up fight, and record your judgment by yeas and nays. I care not how few vote with me, nor how many vote against me, for I know that the latter will repent it in dust ashes before three years have passed. \* \* \*

I give you fair notice that I shall urge the re-enfranchisement of those now proscribed for rebellion as soon as I shall feel confident that this course is consistent with the freedom of the blacks and the unity of the republic, and that I shall demand a recall of all now in exile only for participating in the rebellion whenever the country shall have been so thoroughly pacified that its safety will not thereby be endangered.

And so, gentlemen, hoping that you will henceforth comprehend me somewhat better than you have done, I remain yours,

HORACE GREELEY."

The Liberal Republican National Convention was called and assembled at Cincinnati, on the 1st day of May, 1872, and on the 3rd, nominated Mr. Greeley over Adams, Chase and Turnbull, for President, and B. Gratz Brown, for Vice-President. Arkansas was represented by an irregular delegation, composed of Q. K. Underwood, W. M. Fishback, Ed. Bancroft, John Kirkwood, O. S. Dillon, R. J. Jennings, John F. Owen, R. J. Rutherford, C. N. Underwood, A. D. Lindsley, D. W. Mason, Bright Herring and A. D. Hawkins.

The platform adopted announced 13 articles of faith, of which the following synopsis is given that the reader may understand references which were afterwards made to it by Senator Clayton in his terrific Lewisburg speech reported later on in this history.

1. The equality of all men.
2. Perpetual union and enfranchisement of all men.
3. Immediate removal of political disabilities incurred through "rebellion."
4. Local self-government and subordination of the military to the civil authority.
5. and 6. Civil Service Reform.
7. Federal taxation not to interfere with any industry, leaving questions of "free trade" and "protection" to the decisions of the *people of the Congressional Districts* (!)
8. Maintenance of the public credit.
9. Resumption of specie payments.

10. Gratitude to soldiers and sailors. 11. No more land grants to railroads. 12. Peace with all nations. 13. Pledge to support the platform and candidates, regardless, etc.

The nominations gave general satisfaction. The platform was sufficiently "liberal" and meaningless. The Democrats were inclined to ally themselves with the new party. They saw in it a hope, an opportunity, to realize the force of the motto, "*Divide et impera.*" Mr. Stephens of Georgia, regarded it "The best avenue of relief from the oppressions of the money power." He took occasion to criticise the course of Mr. August Belmont and the New York *World* for opposing Democratic support of Mr. Greeley. The Democratic State Committee favored the support of the Cincinnati platform and nominees. Mr. A. H. Garland, and ex-Chief Justice English warmly advocated it. Hon. Geo. C. Watkins, a former Chief Justice of Arkansas, was especially eager that no Democratic nominations be made. Mr. Watkins was a learned and able lawyer of Little Rock, former partner of the late ex-Senator, Chester Ashley. He was a Democrat of the old school. Being owner of large estates, he felt practically the oppressions of the party in power and understood the causes of them. Nearly all leading statesmen of the South, on

one ground or another, favored making no Democratic nominations. Only Northern Democrats, embittered by Mr. Greeley's course against their party in the past, found it difficult to understand what they deemed a most mistaken and hopeless inconsistency for them to take up Mr. Greeley. The wearer knows where the shoe pinches. The condition of the South was desperate. Its only hope was in the division of the Republican party. It was at the point of exhaustion and turned to any hope of relief.

The Democratic National Executive Committee, whose office was and is merely to appoint the time and choose the place for holding its party National Convention, met in the Art Gallery of its Chairman, Mr. August Belmont, on Fifth Avenue, in New York City, on the 8th of May. A dowdy mulatto girl opened the front door to Gen. Bate (on crutches) member for Tennessee, and to the member for Arkansas. This poor colored girl had evidently received no instructions. Though past the appointed hour, the two Committeemen were the first comers and had to find their way to the marble gallery without guidance. Mr. Belmont was reported to be a "several times millionaire," as the phrase is. After all had arrived he limped into the gallery and made his way to a center table, and without other greeting than a

bow, rapped the Committee to order. Mr. Belmont had been lamed in a duel fought over some private grievance. The gallery was nothing to be admired, particularly with cold inhospitable light shining down upon a solitary statuette and a few paintings.

"Candidate" cities for holding the convention were advocated in well chosen words by their respective representatives. The member for Arkansas seconded the nomination of Baltimore and made bold to state as his reason, that the convention might leave the field to Greeley. The Chairman and Northern members generally were visibly shocked at the proposal. The Chairman said *that* meeting was not the place for nominating candidates. Out of this incident, which was reported, grew the following article and correspondence of the *New York World*, of May 12th:

"MR. GREELEY AND THE SOUTH."

"We understand the intolerable oppression and wholesale robbery under which the South suffers, and make allowance for the asperity and unreflecting haste with which an impulsive Southern man resents any Northern opposition to a ticket which, in his estimation, gives promise of relief. If it were possible to admit that the endorsement of Mr. Greeley by the Democratic National Convention would free the Southern States from Federal tyranny, a Southern citizen would be justly incensed at opposition to Mr. Greeley by a Northern journal which has made steady profession of friendship for the South. But we think the

member from Arkansas misconceives the whole situation.

"The Arkansas Committeeman has a ridiculous overestimate of the importance and influence of Mr. Greeley. He does not seem to understand that Mr. Greeley has thrown away the great ascendancy he once had over the Republican party. His peace mission to Niagara, his advice to President Lincoln to offer \$400,000,000 as a compensation to the Southern slave holders, and his subsequent signing the bail bond of Jefferson Davis, estranged so many of Mr. Greeley's Republican friends that his hold on the party is reduced to nothing. The assumption therefore, that Mr. Greeley will draw off a large Republican vote is a mere flight of fancy. [The British Parliament voted \$5,000,000 to compensate owners of slaves in Jamaica emancipated.]

"Republicans would as soon vote for an out-and-out Copperhead Democrat as for the foremost signer of Jeff. Davis' bail bond. The politicians who speculate on the Republican following of Mr. Greeley misappreciate his recent standing in the Republican party. Since the Union League Club forbore to turn him out after his signature of Mr. Davis' bond, he has been rather tolerated than followed by his former political associates. It is a great and grave mistake to suppose that he has any considerable Republican following in the Northern States, when he steps over the party traces. To be sure, Mr. Greeley is the editor of what has been a powerful party journal. But his present position as a solicitor of Democratic votes will estrange a great part of his old subscribers.

"The *Tribune* has forfeited and flung away its standing as a Republican organ. Of course, nobody will accept it as a Democratic organ, and it is hereafter a mere newspaper, and the personal organ of a man who has broken his party relations in his aspirations for the highest office.

\* \* \* \* \*

"Even if he should be elected, he will have sacrificed the *Tribune*! The Republicans will not tolerate it after it has deserted their party, and the Democrats will regard it with no favor while it advocates ideas and principles which they have always repudiated. The influence of a great journal has been sacrificed to the personal ambition of its chief. The member from Arkansas prudently expresses no opinion as to Mr. Greeley's hold on the negro vote of the South. We presume that he is aware that the Southern negroes will nearly all vote for Grant. If so, what possible advantage can Mr. Greeley have in the South as a Democratic candidate? As a Democratic candidate pure and simple, no man in the country could have a weaker hold on the party. If he can draw off neither negroes nor white Republicans what advantage can there be in adopting him as a Democratic candidate? The endorsement he has thus far received in the North are not Republican, but Democratic endorsements; but it is preposterous for Democrats to endorse him except on the supposition that he will bring an accession of strength to the party. Assuming that the negro vote will be given to Grant, we cannot imagine what would be gained by a Democratic endorsement of Mr. Greeley. To be sure, he favors universal amnesty; but a President can do nothing to promote amnesty except through the pardoning power. President Johnson in his last amnesty proclamation carried the pardoning power to its utmost limit, leaving nothing for any subsequent President to do.

"The member from Arkansas seems to forget that all this unrighteous legislation was advocated by Mr. Greeley with the truculent vehemence he has always shown in such matters. Before Southern citizens come to the strange conclusion that their salvation depends on Mr. Greeley's election, they had

better ask him if he repents of his strenuous advocacy of all the measures by which they are so grievously oppressed. He has done more than any other man to fasten the yoke upon them and unless he recants and apologizes, we do not see how those who complain of the measures can expect relief from their chief instigator and advocate."

In answer to this attack upon a well matured plan and purpose of the Southern Democracy, the member of the Committee sent the editor the following, which the *World* published:

"A SOUTHERN DEMOCRAT'S INDORSEMENT OF MR. GREELEY."

"To the Editor of the *World*:

SIR—If your object, as you intimate in your Saturday's issue, is, by withholding a too ardent support of the nomination of Mr. Greeley, to avoid drawing the bankers' the office holders' "syndicate" of the Republican party from their hitherto settled purpose of nominating Grant, your course might be commended as patriotic in its intentions, if slightly Machiavelian in its method. I might say that the end at least to be attained is righteous. But that such a plea is not a mere pretence, which conceals a deeper design, it will be difficult to conceive. I, a Southern Democrat, read your article this morning warning the Democratic party against suicide, and saying: 'But how trivial a matter is the release of a few thousand elderly gentlemen from disability to hold office, in comparison with the great question which penetrates the very roots and fundamental structure of our Government?' This innuendo, is unworthy of the *World* in many respects, as will be apparent to the most superficial reader. It is chiefly so by reason of the utter want of familiarity it betrays with the matter in hand, viz., the true welfare of the Democratic party

and of the condition in which the party is to be found to-day under the powers assumed by the office holders' syndicate aforesaid, of coercing eighty-eight votes of the electoral college, the vote of ten of the States of the South. This, to me and every one who will see how it affects the structure of the Government, is at this time, to the exclusion of the others, 'the great question' which penetrates to the very roots and fundamental structure of the Government. In comparison with it 'the release of a few thousand elderly Southern men from disability to hold office' is a very 'trivial matter.' I speak only of the power which Grant, through such instrumentalities as Clayton and others of those Southern States, reserves to *coerce* a vote that will decide the contest. But beneath this consideration are other questions of the preservation of their lives, their property, and their most sacred personal and private rights, by the Southern people under the carpet-bag tyrannies from which they suffer, to which the attention of the *World* is not directed, because the *World* cannot feel, or commiserate or hazard a tittle of its own local interests to help to relieve. I beg of you however, before again indulging similar taunts against the 'unfortunate elderly gentlemen' who can't hold office because of their disabilities, to look carefully to the Constitution of the States referred to, and when you see that, by those Constitutions and the election laws under them, the present Governors of those States, without interference on the part of members of their own party, have the power to control the elective franchise of those States for Grant at their pleasure: the power to declare any county under martial law at pleasure, to invade and devastate any county at pleasure, to exclude the vote of any county at pleasure, to review and cut down the registration in any or all of those counties at pleasure, and then say if you do not think the arbitrary power

thus wielded and which Mr. Greeley is pledged, and a Greeley ticket in each State will help to revoke, in your practical view of a power as affecting the result of the election by eighty-eight votes, is not of much greater importance than the 'trivial matter' of releasing a few elderly Southern gentlemen from official disabilities?

From a letter that I received from the Secretary of the State Central Committee of Arkansas, I will quote the following paragraphs: 'Judge Watkins offered a resolution in committee instructing you to vote against holding a National Convention in case the Cincinnati nominations proved satisfactory. But it was lost by a tie vote, for the reason that half of the members believe you were not subject to instructions, the mover at last coming to the same conclusion. The policy of non-action, however, I believe is approved by all. In Arkansas *we want to be perfectly free to choose between Greeley and Grant*. That being the condition, both factions of the Republicans will be forced to count the conservative vote and to make concessions to secure it. Before the Legislature is over I think it more than likely that Article 8 of the State Constitution, under the head of 'Franchise,' and which disfranchised by letter of its provision only about 10,000 but was taken advantage of to disfranchise 50,000, at the last election, will be a dead letter if there is no Democratic National nomination. Otherwise, Capt Hadley (the Governor of the State, a creature of Clayton) will appoint whom he pleases as electors. The situation here is precisely what it was in Missouri in the contest that resulted in the election of Gratz Brown.'

These are the views held by our State Democratic Central Committee. The considerations to the *World* may not seem such 'trivial matters' with all its selfishness and narrowness of view confined to local New York State politics.



The fling at the few thousand elderly Southern gentlemen, I fear not. Other reasons for supporting the Cincinnati nominations, not hinted at are eloquently alluded to in the speech of Governor John C. Brown, on accepting the nomination for re-election by the Democratic State Convention which met at Nashville, on the 9th, and indorsed the Cincinnati nominations, and are already printed in your columns. I beg you to refer to them. Gen. Brown is one of the few Southern gentlemen, though a Major-General in the Confederate army, who is *not* disfranchised, thanks to the Senter split of the Republican party in Tennessee. By that split he is enabled to succeed Senter, and the State of Tennessee nerved to throw off the curse of Brownlow and Stokes, and their ragged militia, and free to vote in the coming election, but not until those plunderers have saddled it with a debt of many millions. This debt would otherwise have kept on increasing until this day, as it is daily increasing in the other Southern States. All brokers will vote against the Cincinnati movement who have 'margins' on deposit for 'bearing' by multiplying these Southern securities.

On the 22d May, 1872, the Brindle State Convention met in Little Rock, at the call of B. F. Rice, James L. Hodges and G. W. McDiarmid, who were members of the former Republican State Central Committee, denominated "bolters" by the Little Rock *Republican*, Clayton organ. From the columns of that paper, the following outline of the proceedings of the convention is taken.

Robt. F. Catterson (the deposed Marshal) was elected temporary chairman, and appointed the usual committees. On motion of W. P.

Grace, of Pine Bluff, the convention adjourned until the next day. On the 23d, the convention met pursuant to adjournment. William G. Whipple, the suspended U. S. Attorney, as chairman of the committee on credentials reported the names of delegates entitled to seats to the number of one hundred and thirty-five. They were mainly the old organizers who had been left out and had the sharpened appetites of a new swarm. In the case of Zara L. Cotton, of Montgomery county, Mr. Whipple introduced the following resolution:

WHEREAS, said Cotton has been guilty of outrageous frauds in registration, for which he has been indicted, it is recommended that he be excluded from the convention.

The resolution was adopted. Cotton had been indicted at the same time upon the testimony on which one of the indictments was found against Powell Clayton, accusing him of ordering, and Cotton as Registrar, corruptly adding to the registration list several hundred names of fictitious electors. It was a favorable opportunity for Whipple to strike back at Clayton.

The committee on permanent organization reported John A. Williams, of Jefferson, for President, and numerous Vice-Presidents. When the President had appointed a committee on resolutions, E. A. Fulton of Drew county (colored), moved the convention

declare Hon. Joseph Brooks its nominee for Governor of Arkansas, which was carried by acclamation. Thereupon Mr. Brooks declared his thanks in a brief speech, concluding with the pledge to the convention that he would zealously join the members of the convention in making an active canvass throughout the State for Truth, Justice and Good Government.

What is Truth? asked Pilate of Christ. What is Justice? have asked the law-breakers from the first-born of Adam. What is Good Government? is the question which man has been asking through all the centuries.

Mr. Blackwell of Jefferson, moved that H. King White be excluded from the convention, as not duly appointed a delegate. After discussion, the mover withdrew the motion. Mr. Whipple then read the majority report of the committee on resolutions, which resolutions are given in full. Subsequent bitter and forcible comments upon them could not be otherwise understood.

WHEREAS, A large number of persons were indicted in the Federal Courts of this State for most flagrant violations of the election laws, and President Grant, upon the application and, in the interest of such indicted criminals and their accessories, suspended honest and efficient officers for no other reason than that they would vigorously enforce the law; and allowed such indicted criminals to name the marshal to select the juries by which

they were to be tried, and to name the attorney who was to prosecute them for their offenses, whereby the criminals were turned loose without punishment and the laws trampled under foot and fraud and crime encouraged; and has seen fit to take sides with and support and sustain the corrupt State House ring in their iniquities against the people of this State,

*And Whereas*, It is now evident that Gen. Grant will receive the nomination for President by the convention of office-holders to be held at Philadelphia,

*Therefore Resolved*, That we emphatically condemn the course of the President in his intermeddling with Arkansas affairs in the interest of crime and disorder, and decline to send delegates to the Philadelphia convention.

*And Whereas*, Horace Greeley and B. Gratz Brown are now before the people as Republican candidates for President and Vice-President upon a platform which we heartily approve, and are men of unquestionable ability, integrity and patriotism, and have for many years been consistent advocates and champions of Republicanism and universal suffrage and universal freedom,

*Therefore, be it Resolved*, That we most cordially indorse the nomination of the said Horace Greeley and B. Gratz Brown and the platform upon which they stand, and pledge ourselves to co-operate with the friends of civil government and reform throughout the land in securing their election.

*And Therefore*, To the end that a free people may be disenthralled from unjust and unlawful burdens and calamities, which are imposed upon them, we cordially invite all the friends of free government, law and order and justice to co-operate with us in the *fearful but determined* conflict which a wronged and robbed people are waging in response to Greeley's rallying cry, "Honest men for office; thieves to the rear!"

The resolutions were signed, J. E. Bennett, chairman, W. G. Whipple, Joseph Brooks, A. H. Barrett, H. Lewis, J. W. Jackson, T. J. Hunt, R. L. Glassick, H. S. Johnson, committee.

Mr. Daniel Webster of the committee, offered the following minority report:

*Resolved*, That this convention approves the national administration and believes it the duty of the Republicans of Arkansas and of the United States to adopt the decision and support the nominees of the National Republican Convention.

The majority report was adopted with cheers and the minority report rejected without division. The convention forthwith completed the ticket of State officers as follows — (all Republicans except Grace and E. J. Brooks, who were not Democrats).

For Lieut. Governor, D. 'January' Smith, of Columbia.

For Sec'y of State, E. A. Fulton (colored), of Drew.

For Auditor, J. R. Berry, of Pulaski.

For Treasurer, T. J. Hunt, of Sebastian.

(Chosen over Logan H. Roots and Henry Page).

For Attorney-General W. P. Grace, of Jefferson.

For Supt. Pub. Instruction, Thomas Smith, of Pulaski.

For Associate Justices Supreme Court, William Harrison, of Jefferson; John Whytock, of Pulaski.

For Supt. Penitentiary, Richard Samuels (colored), of Washington.

For Congressman at Large, Wm. J. Hynes.

FOR PRESIDENTIAL ELECTORS AT LARGE.

M. L. Rice, of Pulaski; Sidney M. Barnes.

FOR DISTRICT ELECTORS.

First District—Geo. W. McLane.

Second District—R. L. Archer.

Third District—E. J. Brooks.

A State Central Committee was appointed as follows:

B. F. Rice, chairman, Geo. Haycock, G. W. McDiarmid, Logan R. Roots, Jas. W. Jackson, J. L. Hodges, E. A. Fulton, R. C. Kerns and E. H. Vance, and the convention adjourned.

It will be observed that the foregoing *resolutions* offered no more than Clayton had done, and no greater guarantees of sincerity than the action of bolting the *national* Republican organization, except declaring for Greeley against Grant. This was a step in the right direction, but as the *Gazette* pointed out, the character and overtures of this faction to the negroes and their political antecedents weakened confidence in their professions. The real issue behind all the party pledges and parade, was, whether the material interests of the State could longer bear *negro domination*? It had been tried and proved a carnival of corruption and ruin. The Clayton faction represented this dread element. It could not be endured. The negro was the mere unconscious force. Like dynamite he was used destructively. The *Republican*, Clayton organ at Little Rock, published many scan-

dalous articles against the members who constituted the Brindle convention. These were written and issued for reading at the Federal capitol.

Brooks in his speeches, retorted with equal vindictiveness, and said that:

Price and McClure (of *The Republican*), were never Republicans; they were *thieves*, border-ruffians and murderers; that the two named had been copperheads, and Clayton & Co., had swindled poor, miserable Mallory, until he did not have money to pay whisky bills; that Hadley went to the Democratic convention, and on the steamer made propositions to the Democrats; and Clayton had bargained with the Democracy, through Chamberlain; and Garland had the letter containing the stipulations, and he (Brooks) had seen it.

June 5, 1872, the Republican National Convention at Philadelphia nominated General Grant for re-election, by acclamation, and Henry Wilson for Vice-President. The platform was according to the following synopsis:

1. Reduction of the public debt and settling threatened difficulty with a foreign power.
2. Liberty and equality must be established.
3. Approval of recent (reconstruction) amendments to the Constitution.
4. Peace abroad and sympathy for those who fought for greater liberty.
5. Civil Service Reform.
6. Opposed to further grants of public lands.
7. Revenues to be raised by duties on foreign importations, thus securing remunerative wages to labor.
8. In favor of legislation for pensioning soldiers and sailors.
9. Rights of adopted citizens to be guarded and urging encouragement to immigration.
10. Abolishment of the

franking privilege and reduction of postage.

11. Protection for capital and a just share for labor.
12. Thanks Congress for protecting the ballot-box in the lately rebellious regions.
13. Denounces repudiation.
14. Proposes admission of women to wider fields of usefulness.
15. Approves Congressional amnesty to late rebels.
16. Disapproves of interference with States rights.
17. Favors measures to encourage ship-building.
18. Eulogizes Grant, and 'starts on a new march to victory.'

On the 13th June, the Senate Committee at Washington, having charge of the investigation of Powell Clayton, unequivocally exonerated him from the accusations against him. The committee reported:

In our opinion, the charges, if such they can be called, are not sustained. The testimony fails to impeach the Senator's official conduct or character.

On the 19th June, 1872, the Democratic State Convention, at the call of Gordon N. Peay, chairman of the State Central Committee, met in the hall of the House of Representatives, at Little Rock. W. W. Reynolds, of Benton county, was made President, and appointed the necessary committees, after which the convention adjourned to the next day. The next day the convention selected delegates to the National Democratic Convention, at Baltimore, and elected a State Central Committee, viz., L. A. Pindall, E. P. Watson, J. T. Trezevant, D. J. Jacoway, Fay Hempstead, H. F. Carrigan, T. F. Dockery and John R. Hampton.

The convention adopted the following resolutions :

WHEREAS, It appears to us, the representatives of the Conservative and Democratic parties of Arkansas, in convention assembled, that the majority of the men constituting the State administration have proved themselves unworthy the high trust reposed in them and have taken advantage of their positions to rob and plunder the people, both white and colored, and have by their peculations in railroad, levee and other bonds of the State almost bankrupted its credit abroad and at home, and have used fraud and unlawful force for the purpose of retaining power against the will of people,

*We therefore*, Declare it to be our opinion, that it is absolutely necessary to the welfare of the people that a radical change in the administration of the affairs of the State and many of the counties should be effected.

*Resolved*, 1. That the best policy to be pursued by the people to make certain of success in the coming election is to have unanimity of action, as well as feeling, on the part of all good citizens of all parties who favor reform in the administration of the affairs of the State and county governments.

2. That the Chairman of each Democratic-Conservative County Executive Committee be requested to put in operation the amendment to the *enforcement act of Congress* in regard to the appointment of Supervisors of registration in each voting precinct of their respective counties.

3. That delegates be appointed to the Baltimore convention called to meet on the 19th July next, and they are instructed to vote for the ratification of the nomination of Greeley and Brown, as candidates for President and Vice-President of the United States in the ensuing election.

4. That we endorse the Cincinnati platform; and also the platform of political principles

(?) adopted by the Reform-Republican Convention which met at Little Rock, May 22, 1872. [Left the *tariff* to Congressional Districts].

5. That it would be unwise and inexpedient for the Democratic party to nominate a State ticket for the ensuing election, and we declare against it. [Stomach for the 'Reform' State ticket too].

6. The State Democratic Executive Committee be hereby authorized to act with like committees of all Reform-Republican organizations in this State opposed to the present administration, in the conduct of the ensuing campaign.

7. That we earnestly urge the organization of the Conservative and Democratic parties in all election districts and in all counties, and the using of all honorable means to secure the election of county officers and members to the General Assembly; and that we extend a cordial invitation to all persons opposed to the present State administration to unite with us in said organization; and we pledge ourselves to oppose the election of all independent candidates for any of said offices running against the regular nominees. We append hereto, as part of this report the platform referred to in the fourth resolution.

GEO. P. SMOOTE,  
D. W. CARROLL,  
J. T. BEARDEN,  
T. W. NEWTON,

Committee on Resolutions.

The resolutions were adopted without division. No Democratic State ticket was therefore nominated by the convention. The action and tickets of the national and State "Liberal Reform-Republican" Conventions were accepted and indorsed. In the existing state of affairs, a rump

Congress, representing a *section*, and certain *class* interests, held power. Its members plumed themselves upon their *humanity* in liberating the bodies of a few incompetent blacks, while riveting chains upon the intelligent *labor* of all the people for their material profit. The delusion that they were Republicans and patriots was too appetizing and sweet! They followed instincts which we all have in common with the "beasts that perish." The Executive Department of the General Government was under a victorious General, who had risen to power through strict obedience of their behests, and knew no other guide. There was no hope of relief through the agency of a free election. The victors inevitably quarrel among themselves over their ill-gotten spoils.

July 10th, the Republican (Minstrel) State Executive Committee met at Little Rock. On motion of H. King White, of Pine Bluff, (who had appeared as a delegate to the Brindle State Convention, it will be remembered), it was agreed to call the Minstrel State Convention on the 21st August, for making nominations of State officers, a Congressman for the State at large, and Presidential electors. The committee appointed John McClure, J. T. White and M. C. McCanany, "to draft an address to the Republican voters of Arkansas." The convention as

well as the address had been anticipated with much interest. This wing or faction of the Republican party in the State was in control of the *election machinery*. Acting Governor Hadley had the power of appointing the election officers. J. M. Johnson, as Secretary of State, had the receiving and keeping the returns of the election. The presiding officer of the Senate merely went through the form of presenting them to the Legislature to be counted.

The hope of the Democrats (and *conservatives*, as many old citizens preferred to call themselves, from a feeling of ancient party antipathy to "democracy") in the coming campaign was based upon the same reasoning that led to the endorsing by the national Democracy of the nomination of Horace Greeley. Mr. Brooks had ever been an ultra Republican. He could not be arraigned upon any charge of "disloyalty." He had been among the first to advocate negro emancipation at the North, and negro suffrage in Arkansas, and could consistently claim to be the champion of the negro race in Arkansas. But more than this, he was familiar with Republican tactics and agencies white and black, throughout the State. He could expose their official misdoings and it was claimed anticipate or thwart their party maneuvers. This he promised he

would do fully and fearlessly "on every stump in the State."

The other faction expressed only scorn for his threatenings. They were the regular and accredited representatives of the party in the State and had the ear of the federal administration which was in the acme of its power. Beyond all this, they were in control of the Union League of the State. The wealthy and aristocratic gentlemen who composed clubs of this order in the Northern cities would have been astonished to behold a meeting of their order in Arkansas about this time. They would have witnessed a secret assemblage of black men, officered by adventurers of their own race, ignorant to the last degree of parliamentary usages and of many of the amenities of civilized association. They were dominated by a white man, or a few white men, acting perhaps as secretary and president to administer oaths, take down names, and enact the semblance of *binding* them to the organization. They were as absolute as Stanley or Emin Pasha over their naked followers.

Acting Governor Hadley was President of the "State Council" of the League, and his son-in-law, Keyes Danforth, was its secretary. It was all-powerful for controlling the negro electors. It was understood among them, that no voters would be registered by the election officers who were not members

of the league. Lodges were instituted and paraphernalia furnished by "lecturers" from the State Council. The chief emblems were the Holy Bible, the Declaration of Independence and the American flag; by which use of them, all three were desecrated. The members were required to take the following oath:

I, ———, with an uplifted hand, in the presence of God and these witnesses, do solemnly swear, without reservation of any kind, that I will support, protect and defend the Constitution and government of the United States of America, *one and indivisible*, and the flag thereof against all enemies, foreign and domestic; that *I will vote only* for those who advocate and support the great principles set forth by this league.

And I further promise and swear that I will protect and defend all worthy members of the Union League of America, and will never divulge or make known to any person or persons not worthy members of this organization any of the signs, pass-words, grips, proceedings, designs, debates or *places of meeting* of this or other councils of this organization, unless authorized to do so by competent authority.

And I further promise and swear that I will aid and defend the workmen of the nation in all lawful methods to secure them the right to labor and enjoy the fruits of their labor, and that I will not countenance or employ any one who is in any way hostile to the workmen of the Nation.

And with my hand on the Holy Bible and flag of the United States of America, I acknowledge myself firmly bound and pledged to the faithful performance of this, my solemn obligation, so help me God!

This oath is taken kneeling with

the members around the "poor, blind" candidate in a circle with clasped hands. Then after the announcement: "That this circle of freedom must never be broken by treachery under the penalty of death," the new member rises and is greeted: "Hail Brother, worthy and true!" Meetings are appointed to be held weekly. Of course, the power of the council at the capital is exercised without reserve in dictating the candidates to be voted for by members of the league, to which all the negroes in the State have belonged at one time or another. It can be seen that no writings or speeches, even if they could be read or heard, would penetrate a Kraal like this. John C. Calhoun painted this scene more than fifty years ago.

July 9, 1872, the Democratic National Convention met at the city of Baltimore, in Ford's Opera House, and was called to order by August Belmont, Chairman Democratic National Committee.

Mr. Randolph, of Va., grandson of Thomas Jefferson, eighty years of age, was made temporary chairman, and Fred. O. Prince, of Boston, secretary. After the committee on credentials reported, J. R. Doolittle, of Wisconsin, was elected permanent President and the usual number of vice-presidents and secretaries appointed, when the convention adjourned.

On reassembling July 10th, the report of the committee on

resolutions was read by E. O. Perrin, of New York, formerly of Memphis. Mr. Barr, of Pennsylvania, explained that the resolutions were the Cincinnati platform of the Liberal Republican Convention *exactly, nothing added, nothing excluded*. Mr. Bayard objected to going before the country without an independent expression of principles. He was interrupted and voted down by 662 yeas to 70 nays. The vote being taken on the nominations for President, Horace Greeley received 686 votes, James A. Bayard 15, Jeremiah Black 21, Groesbeck 2; for Vice-President, Gratz Brown received 712 votes, Stevens of Kentucky 6, Jeremiah Black 12. An anti-Greeley Democratic meeting was held the same day in Baltimore, but accomplished nothing. Our friend, Col. E. Nat Hill, participated in that meeting.

The Democrats and Liberal Republicans of Little Rock ratified the nomination of Greeley and Brown in the City Hall, July 11th. Joseph Brooks, R. C. Newton and R. A. Howard were the principal speakers.

Mr. Brooks opened his campaign as the "Reform Republican" candidate for Governor, with a speech in the State House yard, June 21st. As yet no rival candidate had been announced, and he seems to have made the appointment chiefly for placing himself on the Greeley ticket, and as a



public acceptance of the nomination; an earnest of the service he proposed to render in the cause of "truth, justice and good government." It was no task for him to speak at any time. As he stood in the shade thrown by the quivering leaves of the ancient cottonwood, and his thin locks were lifted by the soft breezes of the beautiful summer day, he seemed to feel a fresh pleasure in stirring up the animals in the State House garden.

The windows of the ancient capitol were filled with these, looking down smilingly and complacently. So the Philistines may have looked on the blind old Samson as he made "sport" for them. Judges Bowen and McClure smoked their choice Havanas and made merry comments from the Supreme Court Library windows. Bent. Turner and Bill Oliver sat immediately under the droppings of the stream of denunciation which for an hour or more was poured against their faction.

Mr. Brooks said, with the fiercest energy of action and scornful facial expression, among many other bitter things, the following:

Why may not the Liberal Republicans, in the language of *our* candidate, 'clasp hands across the bloody chasm?' Why may they not, seven years after war has ended and peace resumed its sway (?) beat their swords into pruning hooks? This is a movement to wipe out military government and conduct

government unmingled with '*orders from these headquarters.*'

I have no desire to injure *the individual* who is running the machine, but I do wish to see *the machine* go to pieces! I wish to see that the people are no longer interfered with, and deprived of sacred constitutional (?) rights, by these seven-by-nine bob-tails, such as were sent to Hot Springs with orders to register eight hundred voters [for which Clayton had been arraigned] whether in existence or not, and to some other county to register a thousand, 'to meet emergencies.'

One general system of corrupt employment has stained this State administration from head to foot. It has administered the financial affairs with a desperate energy and with sleeves rolled up to the elbows, in order to make a complete gobble. The county of Jefferson, where the chief ruler lives [Clayton], incurred before the war the annual expenditure of \$9,000. Now these guardians of its interests spend \$100,000 yearly—to make loose change. In the little county of Van Buren, the tax exceeds the entire surplus of the county, still the schools and other institutions, destroyed by the war, are not rebuilt.

I need not assure this intelligent audience that our judicial officers are mere creatures to carry out the wishes of these rings, and our grand and petit juries are a mere semi-annual put up job in the interest of these robbers. I here solemnly promise that if I am elected Governor, I will cause an investigation of these crimes. And I do not doubt, if I can find grand juries to present indictments and attorneys to prosecute the perpetrators, I will fill the penitentiary so full of them that their legs and arms will be sticking out of the doors and windows!

A great deal has been attempted to be made out of a report that I said in the Legislature, November 23, 1868, that Arkansas

should be Republican, or I would make it a waste and howling wilderness. I did say, in that speech, that I would see the laws obeyed and crimes punished or make it a wilderness, and I hold that purpose still and will carry it out, if I am elected Governor.

His Democratic auditors and dissatisfied Republicans of his own party greeted these bursts of "forcible" denunciation against the men in power with loud cheers of amusement and encouragement. Some had misgivings, arising from the style and excessive audacity of the orator, who had so lately come out of the camp of the men he stigmatized. The State House officials jeered and affected to be amused by "the old blatherskite," but they felt the necessity of having him answered. He had appointments in Conway, Perry and Yell counties, following close upon this speech. Crowds would assemble at his appointments to hear this abuse, and it would be well for the opposition to meet him and demand some authority for these gross invectives. He had an appointment to speak at Lewisburg, on the river, above Little Rock, on the 25th June, after speaking at some previous appointments in Yell and Perry. Powell Clayton was the principal object of his severest phillipics. Now that Clayton had extricated himself without injury to his party standing, from the difficulties of the Senate investigation and criminal prosecutions, he was especially

desirous of having, at least, one debate with the outspoken Brindle chief. Having returned from Washington, he quietly got ready to intercept Mr. Brooks at Lewisburg, in Conway county.

The Senator, it is evident, had carefully prepared himself, and was disciplined by the senatorial investigation in the kind of warfare to be waged and material and argument to be employed. He accordingly went up to Lewisburg, and took with him James M. Pomeroy, an expert stenographer, who had been employed in reporting the debates of the Constitutional Convention. The Senator was accompanied also by Henry M. Cooper, "Gen." A. W. Bishop, "Col." Nat Hill and E. B. Blanks. He had faithful supporters among the Republicans of Conway county. Several supporters of Mr. Brooks, hearing of the intended meeting also went up, viz: R. F. Catterson, James L. Hodges, M. L. Rice, Barney McKenna, Thos. Fletcher and Capt. Cutter, (whites), Jack Agery Jerome Lewis and D. McWhorter (colored).

The place of speaking was in a little grove on the table-land that rises from the Arkansas river near Lewisburg. The old town betrayed signs of the ravages of war and lawless havoc. There was the road and tumble-down worm fence, along which old man Hopper was conducted to his death, mounted

and guarded by Clayton's militia—his legs tied with ropes under his horse's belly. And there in the crowd were some of his murderers. The old, weather-beaten, two-story jail with its iron-barred windows, frowned upon its dismal site, amid the red gullies, deepening as they descended to the Arkansas River. The muddy waters of the river at Lewisburg swept around a black, slaty point, which marked the town landing. In the distance across the river were the level cotton fields, stretching miles away to a long, blue ridge, called the Petit Jean Mountain. It rose out of the river like the bastion of gigantic, ancient fortification. The audience was in keeping with the scene, motley as to race and clothing, yet possessing a certain picturesqueness and poetic remembrance, for one who recognized in many of the scarred faces under the slouch hats, men that defended Vicksburg and followed Stonewall Jackson from the Shenandoah valley to the Chickahominy and to Manassas.

Mr. Brooks made the first speech. He repeated his scathing denunciations of the State administration, its frauds of finance, ballot-stuffings, official corruption and burdensome taxation. He announced himself pledged to those reforms which the Liberal Republican party proposed to inaugurate, such as honest registration, without disfranchising any-

body, and reduction of taxation. His motto was "Honest men for office, thieves to the rear!"

He referred to his services in the cause of the negro race, and to Mr. Greeley as their first and greatest champion. He was not actuated by desire for office, but to maintain *right*, and put down *wrong*. His disapproval of the iniquities of the State administration antedated his removal from the office he held as revenue collector. He appealed to Clayton to bear witness that an office tendered him by that gentleman, he had declined. He then went into personal criticisms of the registrars who had been appointed recently by the State administration and asked, From such a planting what fruitage was to be expected in the coming election? The Democrats cheered him lustily—those same Ku-Kluxes who kept their eyes on the assassins of Hopper.

Clayton kept his eyes upon the speaker, listened intently to him, but took no notice of his appeal. He stepped to the stand at the conclusion of Brooks' speech; with studied dignity, he began by discussing the attitude and "platforms" of existing parties; then he answered the charges against the State administration by the familiar *Tu Quoque*, and concluded with a severe yet humorous derision of Mr. Brooks and his pretences and impotency for good or

evil. Senator Clayton said, according to the stenographic report made by Mr. Pomeroy:

I was accustomed to labor from my boyhood in the eighty-two-acre farm of my father, who raised a family of ten children. I am here to defend that party which had made labor honorable and rendered it possible for the colored man to enjoy the fruits of his honest toil. It could not be denied, that although there were several parties in the field, the great fact to be recognized was the existence of only *two* great political parties. This is proved by the platforms of the parties themselves. There is the Cincinnati-Baltimore platform which I call the platform of the old Democratic-Conservative-Ku-Klux-Abolitionist—anything to beat Grant party.

Now I will give you my interpretation of the first article of that platform. 'We, the secessionists of the South, the copperhead Democrats of the North, the Ku-Kluxes of the South, the Tammany thieves of New York, bow our heads and meekly subscribe to this article which recognizes the equality of all men before the law, and the duty of the government to mete out equal and exact justice to all of whatever race, color or persuasion.' Now I hope very much that my Ku-Klux friends are in earnest in subscribing to this article, and I am willing for one to accept their repentance, but as to them, I believe the good, old Methodist doctrine of a reasonable probation should be applicable. This reminds me of the difference between Greeley and Grant and Brother Brooks and myself. My father never voted the Democratic ticket. But I thought I was wiser than he, and when I came of age I acted with the Democracy for a time.

A voice from the audience asked him: "How about that secession cockade?"

The man that said that is a liar! The man who says I ever wore a secession cockade, or any other kind of a cockade, is an unmitigated, infamous, damnable liar! I have heard that before and other lies about my being a 'border ruffian,' and sending colored men back into slavery from Kansas. They are all infamous lies.

Now, as I said, before these men can be trusted it should be known to a certainty that their professions are not a mere subterfuge.

As to the second article of that platform, which pledges to accept the amendments to the Constitution and to maintain the Union—when I remember how gallantly some of them have struggled to break up the Union, and that the Democracy of the North had helped them, and Ku-Klux clans that rose so promptly to resist the amendments, I should ask a better guaranty than mere windy words of a political campaign.

The third article demands the immediate removal of all political disabilities, and universal amnesty. On this question I and Brother Brooks quarreled two years ago. I had maintained publicly, fearlessly in October, 1870, that the time had come for removing disabilities. He contended that the time had not come *to even think of it!* I have heard that he denies using this language.

Mr. Brooks—I never used it.

I have come prepared to *prove* that you did. Here are two reports of your speech at Butlerville, which contain it. One the *Republican's* report; one the *Gazette's*, which substantially agrees with the *Republican*. And furthermore, there, sitting before me, is the reporter who reported your speech [referring to Mr. Pomeroy]. There is the record against you, and as Artemus Ward has truly said, 'A record is a mighty inconvenient thing.' I am possessed of another record and will read it as proof that Mr. Brooks has favored the confiscation of lands of the Southern people. As

I had recommended it in my message, as Governor, the Legislature adopted the proposed amendment to the State Constitution providing for the complete removal of political disabilities that Brother Brooks had helped with great zeal to incorporate in the Constitution. Meanwhile he had gone up and down trying to make the colored people believe, that by this measure your speaker was 'selling out the party to the Democracy,' and inaugurating a plan for putting them back into slavery! But the following Legislature, when the people had ratified the amendment, went to work and made the amendment a part of the Constitution, which was a speedier and more efficient method than *resolving* it in 'platforms,' or vaguely postponing its adoption, according to the idea of Mr. Brooks, '*until all the colored children should be educated in the Yankee schools.*'

I was in favor of imposing disabilities as a temporary measure, because it was necessary to accomplish the reconstruction of the State, and the ex-Confederates refused to help me in doing so. I have always advised a liberal course. Brooks, Price and Hodges thought differently and placed these disabilities in the Constitution.

[Here the speaker read his message favoring the removal of disabilities and the reduction of the number and salaries of officers].

The fourth article of the platform of the Democracy in favor of local self-government is as old as the government itself, and I cordially endorse all that this article contains.

The fifth article, I regard as too general in its first sentence to admit of discussion. The remainder of the article throws light upon the political policy of its authors. It attempts to evade the great issue which has been for many years the most important that has ever engaged the attention of the American people. 'Protection for American industry' is one of the most important questions that this gener-

ation has been called upon to consider. If such a policy is right, why do they not plant themselves squarely upon it? If wrong, why not stand squarely against it? The fact is, that the men who went to Cincinnati were drawn there by hatred of Grant, to whom the people owe a debt of greatest gratitude. From such a heterogenous conglomeration what would you expect but contradiction?

The eighth article *is good*, in favor of a speedy return to specie payments. I favor it.

The ninth article is first rate, declaring gratitude to the soldiers and sailors and their right to be rewarded. It would please me to believe that the ex-Confederates, who fought them so gallantly, remembered with *gratitude* the men who thrashed them!

The tenth article, opposing further grants of lands is a principle which I have supported by fighting every such thing as often as it came up since I have been in Congress. The Brindles, on the contrary, have voted *for* every one of these schemes and '*made money*' by the operation. Rice could not deny that he took money for them, or that he took the money of Kentucky *orphans, who were his clients*, and *decamped with it*—kept it seven years, and only paid it back after he had been *exposed*.

The eleventh article referred to our foreign policy. Grant's foreign policy met every requirement of that article.

The twelfth article, all true Republicans can endorse. He could amend it to read a little *stronger*.

The speaker then read the Whipple resolutions of the Liberal Republican State Convention, which he called the "Brindle-tail platform."

For cool, unmitigated, scientific lying, he would commend it. It is true, that not 'a large,' but a small number of persons had been indicted in the Federal courts. All the

rest was false as hell! It was not true that certain men had been removed by the President 'in the interest of criminals.' It was a lie! It was not true that the men removed were honest and efficient.

They were as *scurvy a set of knaves and thieves*, as ever plunged their hands into the public treasury, and eluded the walls of the *penitentiary*; and he would show this to be so, before he *got through!* It was not true that they were removed because 'they would vigorously enforce the law,' but it was because they would *not* enforce the law against their *pals*, whilst, on the other hand, they could not sleep at night for scheming to oppress honest men. It is not true that the attorney appointed in the place of Whipple allowed these men who were indicted to go free. Whipple was invited to prosecute the case and did prosecute it. He was retained and when the court met, Judge Dillon, and not that Whipper-snapper tried the case. And what was the result? That able and pure judge decided that there was *no offense!* Then they raised the cry, that 'Clayton was afraid of investigation.' What did he do on hearing that cry? He invited his brother senators to investigate, and men who would have bowed to the crack of no party-whip, heard testimony for four months. Brooks testified, Rice testified, and McLane and the balance of the Brindle crew, thirty-eight witnesses. And what was the result of that investigation by honorable men? They declared 'the testimony fails to impeach the Senator's official conduct or character.' That committee, upon sworn testimony, and not newspaper articles paid for by Cairo and Fulton railroad money, summed up by saying that 'This charge is totally and entirely *unsustained!*'

Your speaker will not say that the State government is perfect. The question was not what *kind* of government the people should have, but whether they should have *any*

government? When we came to reconstruct the government, the old citizens would not take a hand. The negroes and carpet-baggers did the best they could. If it were in my power I would *wipe the past all out!* If the State government is imperfect, no men are more to blame than Joseph Brooks, B. F. Rice and James L. Hodges. *They ran the Constitutional Convention. I had no hand in it.*

It came out in evidence at Washington, that this man Brooks and others were directors in the Little Rock and Helena railroad company. In course of time, the Red River and Ouachita railroad company wanted more bonds of State-aid than had been awarded it. So the latter company bargained with Brooks and another member of the Helena company for their State-aid of \$25,000 in State bonds. They got it from the Helena company! and I have a copy of Joseph Brooks' relinquishment over *his own signature*. He gave up the bonds issued to *his* company, to be converted into money by the other company. Mr. Rodgers came before the committee and testified to these facts. They are not hearsay.

Rice, Hodges, Benjamin and other prominent Brindle-tails, have taken out \$350,000 of the life-blood of the Little Rock and Fort Smith railroad, and that is why your citizens of Lewisburg cannot step on the cars to-day and go to Fort Smith. That money has gone in a way that might be guessed at by looking at Hodges' beautiful house at Little Rock, upon what the old citizens called 'Robber's Bluff.' These men have destroyed the credit of the State in the city of New York. They got control of the Cairo and Fulton railroad franchise, not by purchase, for they did not buy it; and when Marquand and his associates were ready to buy it, the latter in order to get rid of Rice and Brooks, had to *buy them off*, by giving them over \$500,000! After the bargain was made, and the time fixed for pay-

ment, they all tramped off to St. Louis to receive it. They were too well acquainted with each other to *trust any one* of their number, even Parson Brooks with *such a mission*. They knew Rice had *stolen the money of the Kentucky orphans*, and was given to gambling. No one *thought of trusting Hodges*. So they all went together! After setting aside \$40,000 to be placed in Ben. Rice's hands for political purposes, and after paying the two Rice's their attorney's salaries, at the rate of \$10,000 a year, they divided the balance among themselves! Rice acknowledged under oath that he got \$40,000; Brooks got about \$23,000.

Brother Brooks need not try to keep me answering questions, during my speech, I am too old for him to play that trick upon me. Brooks and Hodges and Rice are the men *guilty of robbery and speculation* in this State, and I have come here to *charge them to their faces* that they are *thieves and scoundrels, reeking with corruption!* They have stolen not only \$500,000 from the Cairo and Fulton railroad company, but nearly *everything else in the State*. All these charges can be sustained by *evidence*. They are not made merely in this State, but have been made before their faces in Washington, where Rice had only stammered they 'were untrue.'

I have pledged my honor and reputation as a Senator, that they were *true*, and challenged Rice, as a Senator, to demand an investigation, as I have done. But Rice is too smart for that! But I have something to say of the Brindle candidate for Lieut. Governor, 'January' Smith. It was in evidence in Washington, and the witness was a Brindle-tail, that old man Smith was paid \$200.00 for his support of the levee bill.

James L. Hodges interrupted the speaker by saying, "It is not so."

I repeat that 'General' McLane testified to what I have said. He also testified that, he

himself received \$20,000 for assisting in lobbying the levee bill through. Of course this was for his services as 'attorney.' Pretty good pay for an attorney doing lobbyist's work, especially such an attorney as McLane. Fulton, the colored Brindle candidate for Secretary of State, swore in Washington that he received money from a man named Townsend, or 'Keno Townsend,' as the *Journal* used to call him. He refused to testify what sum was paid him, or for what, on the ground that it would *criminate him!* The Rices, Hodges, Catterson, Whipple, Brooks, Whytock were *all in this* Cairo and Fulton railroad ring. They are a nice set of fellows to talk of 'honest men for office, and thieves to the rear!'

I had interests in this State before the most of these *statesmen* came here. I had, as John M. Bradley would say, 'harnessed myself to the soil,' and 'taken my chances' with the people of the State. At first, I lost money, but I stuck to it, until it has paid well. Taxation for general purposes is no higher now than five years ago, one-half of one per cent. The additional taxation, of one-fifth of one per cent *Brooks and his Holford Bond enterprise* has caused us to pay as interest on the funded debt. I believe that some of his ring secured money for that job. Gen. Karney, of Kansas, told the speaker that he had loaned Rice \$25,000 to be repaid in funded bonds of this State. The General's partner said he had the bonds now, paid by Rice on the loan — and is liable to keep them a *long time!*

And now let me conclude, by telling you a little story, or fable, by way of illustrating what we have seen and may expect to see. There was once an old brindle bull, which had been driving the small game into the lion's mouth, by bellowing up and down; and in turn the lion permitted him to graze a little, unmolested. But we shall not let the old brindle play his little game any longer. In

November, we will strip his hide off, and hang it up for a warning. Or else, Grant, who is a good *tanner*, will tan it. And Wilson, who is a *shoemaker*, will make it into *shoes*, so that the poor Brindle Democracy can have shoes to wear on the rugged trip they are destined to take up Salt River.

The "Klu-Klux" Democracy could but admire the pluck exhibited by Clayton, and cheered him generously. The negroes seemed perplexed at the antagonism exhibited between these recognized leaders, and remained silent. Mr. Brooks looked, if anything, more sardonic and sallow during its delivery. The State militiamen shouted wildly. Hodges smarted severely under the terrible personal castigation inflicted on him. He was a short, thick man, with mut-ton-chop whiskers, red face and tip-tilted nose—a living embodiment of the "butcher" in English toy-books. He was lessee of the penitentiary, and went heavily armed with revolvers and stout hickory stick. He panted in impotent rage, and with flushed cheeks whispered to Brooks, who repressed him. Brooks made a short, formal reply. He attempted to be humorous at the Senator's expense and to admire the adroitness with which he shifted blame, but secured for himself the chief honors and profits, "all the same." Hodges wanted to speak, and Clayton stood silent as if he wished he would, but Brooks, McKenna and others dissuaded him. The

combatants separated and the crowd dispersed.

August 21, 1872, the Republican (Minstrel) State Convention met in the Hall of the House of Representatives, at Little Rock. A. J. Warwick, Chancery Judge, was chosen temporary chairman, and appointed the customary committees, when the convention took a recess until evening. At the evening session, Judge Warwick was made President; Vice-Presidents were chosen for each Congressional district. Senator Clayton moved the appointment of a committee on resolutions, which was carried. The President appointed Powell Clayton and five others as the committee.

It was moved and agreed to, that the convention now go into nominations for State officers on the Republican ticket.

Judge E. D. Ham nominated Elisha Baxter, of Independence county; J. A. Lockhart nominated Gen. A. W. Bishop, of Pulaski; J. F. Bottsford nominated ex-Senator Alex. McDonald, of Pulaski; Chas. W. Tankersley nominated O. A. Hadley, the acting Governor.

The movement of the Liberal wing of the Republican party and its alliance with the old-citizen Democracy was admonitory that carpet-bag strangers, (as were all who had so far been put in nomination, except Elisha Baxter) should play a less conspicuous part *in this campaign*.



The opposition combination was too formidable to be trifled with. So Senator Clayton, who really wielded omnipotent power in his faction, stated that he had been authorized to withdraw from nomination for Governor the name of O. A. Hadley. Asa Hodges, of Crittenden, a confidant of Clayton, stated that he was authorized to withdraw the name of Alex. McDonald. Gen. Bishop himself declined the nomination, and moved that, "Elisha Baxter be nominated, by acclamation the candidate of the Republican Convention for Governor," which was carried, although without much cheering or enthusiasm. Judge Baxter was escorted to the platform, and said :

You must accept the tribute of a grateful heart. It is to Governor O. A. Hadley that I am more indebted for occupying this position than to any other man in the sound of my voice. Had he not fully and finally determined to withdraw, I could never have been nominated.

I see many faces before me that a few years ago would not have been allowed to come into this hall. I saw a bill passed in this hall, in 1858, requiring all persons of color to give bond for their maintenance or leave the State. I combatted that infamous proposition on the floor of this house. Men have come to me and said, you are an old citizen, if you are elected, can we, as carpet-baggers, or we as colored citizens, rely on your favorable consideration?

A friend of mine referred to-day to the time when I was in prison here for treason against the Confederate States. No feeling on that account is entertained by me. I am to forgive as I expect to be forgiven. Through

the agency of friends, some white and some colored, I was enabled to escape. May my arm drop from its socket if ever I prove recreant to the colored people of Arkansas. The infamy which I see heaped upon *one who has pursued such a course*, would alone serve to deter me. Joseph Brooks claims to be the candidate of a party or parties who have put him forward to *betray the Republican party*, and the *colored people of the State*.

I have some knowledge of law, as through the kindness of Governor Clayton I have held a position in the judiciary of the State. I know something of the solemnities of a contract. Mr. Brooks' contract with his parties has been signed and sealed, but not delivered(?) If the Republican party lives, it will *never be delivered*. The cry of this eminent man, is: 'Honest men for office.' I should not wish to see any man occupy any office, however small, unless he is a hundred times more honest than I believe the Rev. Joseph Brooks to be!

I intend to do my part, and I think we have inaugurated a policy that will result in a victory of the Republican party of 20,000 majority, and which will bury Joseph Brooks so deep that the intense indignation of the people will *never reach him*. I will support Grant and Wilson, and *will not vacate the executive office, until the expiration of my term of office*. I thank you for the honor.

As crude as were the notions of his auditors of forensic propriety and elegance, this short speech of acceptance did not seem to impress them very favorably. They seemed to realize that the man was *silly enough to be honest*.

Volney V. Smith was nominated for Lieut. Governor; Jas. M. Johnston for Secretary of State; Henry Page for Treasurer; Stephen

Wheeler for Auditor; T. D. W. Yonley for Attorney General; M. L. Stephenson and E. J. Searle for Associate Justices; J. C. Corbin (colored) for Superintendent of Public Instruction; H. B. Robinson for Superintendent of the Penitentiary, and John M. Bradley for Congressman at Large; W. W. Willshire for Congress, Third District. The nomination of electors for President and Vice-President of the United States was confided to the Executive Committee, which subsequently appointed D. S. Griffin, W. W. Granger and Thos. Barnes, Electors at Large; W. H. Howes, First District; Arthur Hemmingway, Second District, and L. G. Wheeler, Third District.

Powell Clayton, chairman of the committee on resolutions, presented the platform as prepared by the committee, which was adopted without change. The platform was:

1. Adhesion to principles of the Republican party.
2. Equality of all men before the law.
3. Free Schools; Superintendents to be abolished, and question of education remitted to the local authorities.
4. Strict enforcement of the registration law. [Union League].
5. Removal of political disabilities [subject to registration].
6. The exclusive right of the *States* to determine the qualification of voters. [They were then the 'State'].
7. Reduction of taxes and opposition to repudiation.
8. Exemption of personal property to the value of \$300.
9. Repeal of State law creating Superintendent of Immigration.
10. To give to the people the right to elect all officers.

11. To prohibit collectors and treasurers from buying scrip, and require payments in kind.
12. To reduce salaries and fees.
13. To make penitentiary self-sustaining.
14. To reduce amount of exemptions.
15. To require *strict investigation* as to the means employed for procuring the law funding the *Holford Bonds*.
16. Eulogizing Gov. O. A. Hadley.

The Executive Committee appointed was: Powell Clayton, O. A. Hadley, J. N. Sarber, S. W. Dorsey, at Large; E. R. Wiley, J. T. White, First District; James Torrans, Francis Sawyer, Second District; John McClure, E. D. Ham, Third District.

The "Pope county war" was about this time disturbing Governor Hadley's administration. Its details would cover many pages. Pope county is divided from Yell county on the south by the Arkansas River. It extends northward into the mountains. At the foot of these lies Dover, a pretty village formerly, and the county-seat. Hickox, the County Clerk, issued, on his own motion, an "order," or warrant, for the arrest of young Poynter, whose father had long kept tavern at Dover. Brown, a deputy Sheriff, in executing it, was shot and killed, old man Hickerson always said, by Poynter. Hickox caused the Sheriff, Dodson, to arrest young N. J. Hale and his father, Joe Tucker, and Perry West as the murderers. Dodson, Williams and Cloninger, militia officers, with the pretence of taking their prisoners under

guard for examination before Judge W. N. May, at Dardanelle, across the river, murdered young Hale and Tucker, in the night, about six miles from Dover. Old man Hale and West escaped in the darkness. The party was armed with rifles recently sent to Williams' company, by the Governor. The Governor hearing of the killing, said he would have removed Dodson, but was powerless under a recent decision of the Supreme Court. He went in person to Pope county. On the 13th July he issued to Williams an order to disband his company. He issued a second order to the same effect, as follows:

LITTLE ROCK, July 26, 1872.

*Maj. T. M. Gibson, Commanding State Guard, etc.,*

SIR: It has been reported to me that a portion of the arms sent Capt. Williams' company, has been placed in the hands of men charged with the assassination of Hale and Tucker. If true, you will cause the arms to be taken away, or Williams' entire company to be disarmed, and the storing of the arms, if this will restore quiet, etc.

O. A. HADLEY,  
Commander-in-Chief.

EDWARD SAXTON, Capt. & A. A. G.

Gibson (who was one of Catterson's raiders) either could not or would not restore quiet. Then, having sent Gen. Bishop, the Governor sent Upham, with authority to call out the militia and to take general command. He finally sent Lieut. Grove, with a detach-

ment dressed in regular United States uniforms. He wrote to Maj. Gibson, at that date:

I am satisfied, from what *I have seen myself*, that Cloninger has acted in gross violation of law. I hope no means will be spared to bring him to justice.

No steps were taken to arrest Cloninger, who had robbed all, indiscriminately.

On the 4th September Gov. Hadley received the following letter from Dodson, at Little Rock, to which place he had gone, after the events related in his letter, as follows: [written for him there].

DEAR SIR: On 1st September, 1872, in company with W. H. Hickox, the County Clerk, and my deputy, John H. Williams, I started out of the town of Dover, Pope county. At a distance of about one hundred yards from the court square we passed twenty or thirty men armed with revolvers. At a point further on we were fired upon from a house occupied by one Meecham as a wood-shop, and Capt. W. H. Hickox was shot through his head and killed. From the point where Hickox was killed, for a distance of a quarter of a mile, deputy Sheriff Williams and myself were fired upon by persons secreted in houses, fence-corners and alleys, and in our rear by the persons of whom mention has already been made. [Here he gives an account of Gen. Bishop's visit—of no consequence]. Much excitement prevails throughout the county, and nearly all the male inhabitants thereof are under arms and refuse to recognize the forms of law [as observed by Dodson].

The Governor replied to his letter the same day, stating that Maj. Gen. Upham had been instructed to *assist him* in the enforcement

of the civil and criminal law, and directing him to place himself in communication with Upham. Both letters were for publication, and appeared the next day in the *Republican*.

There appeared also in the *Republican*, the military order of Sept. 6th, entitled, "Special orders, No. 128," in four paragraphs, assigning Maj.-Gen. Upham to the command of all the State Guards and enrolled militia, and ordering him to proceed to Pope county. Signed by O. A. Hadley, as Commander-in-Chief, and by Edward Saxton, Capt. and A. A. General. Dodson returned to the county with Upham and resumed command of his old gang of marauders, but was ordered by Upham not to enter Dover. Sept. 10th, Capt. Williams was killed while collecting militia for Dodson.

Upham, himself, did not seem to approve Dodson's methods. The mountain militia "appeared to hesitate." This was no bed-quilt raid that invited them. About the 10th of Nov. as Dodson was boarding the train to leave the county, at the terminus of the Fort Smith and Little Rock railroad, he was shot to death by a party of citizens in pursuit of him. *They "removed" him, if the Governor could not.* They meted out to him the doom he had visited upon many others—a leaden summons and summary execution by the roadside. Cloninger fled to Hot

Springs. There he was torn limb from limb in the machinery of a saw-mill he had bought and was operating. "They say, *blood* will have *blood*," said Macbeth. These disturbances for a time helped the canvass of Mr. Brooks, so lately a militia champion. But in the end they taught the people to doubt both sides, and rely upon themselves. Credit was given Governor Hadley for his attempts at pacification.

Brooks and Clayton, not far from these scenes, were engaging in heated discussions, and spoke together at Van Buren, on the river above, the 31st of August. Brooks was accompanied by Hynes, the "Reform" candidate for Congress at large. Since the last Legislature, an additional Representative in Congress was allowed the State for whom no district had been laid off.

Mr. Hynes was about 30 years old. He had some connection with the press at the Federal Capitol, whence he was sent to Arkansas, by B. F. Rice, to become a candidate on the Brindle ticket. He was an Irishman, and, like most of his countrymen, was a fluent talker. He had not been long in the United States. He wore side-whiskers, with a retreating chin. In winter he had appeared in drab overcoat and gaiters, a Mark Meddle, or Oily Gammon, as depicted. In summer, he dressed in short seersucker coat, white necktie and

high silk hat. It was one of the *reverses* of the time that this callow foreigner, who did not have a hundred acquaintances in the State, was put forward to occupy the seat once filled by Yell and Sevier, Johnson and Hindman, who were qualified by long training and exceptional ability. This was enough to show the contumacious disregard in which the people and their interests were held by these adventurers of both factions. He was a Catholic also. His constituency (?) were protestants and negroes.

There was a large crowd to meet the speakers at Van Buren. Mr. Brooks opened the discussion with his familiar denunciations of the State House ring and determination to fill the penitentiary with them. Clayton demanded of him whether he intended his remarks to apply to him personally. The speaker replied that he *did not*, unless the Senator believed they had a personal application. When Brooks had concluded, Clayton replied, laying at Brooks' door most of the troubles that beset his administration (!) and charged Brooks with being the father of the law for funding the Holford Bonds. He repeated the history of the Cairo and Fulton railroad steal by Brooks, Rice, Hodges and Whipple, and denounced the Brindle leaders in pretty much the same language employed by him at Lewisburg, and concluded with

his parable of the "Old Brindle Bull."

Hynes followed and made a terrible exposé of the misdeeds of Clayton and his military and civil "myrmidons." He produced records and gave data against them with telling effect and an audacity that contrasted with the somewhat guarded criticisms of Mr. Brooks. He had no crevices in *his* armor, since he had just put it on, and was bold in the knowledge that Clayton could make no counter-charges against him. He would have come off with trophies, if he had not ventured one stroke too many. Clayton listened to him calmly, from his seat in an open carriage until Hynes repeated the story of the *secession cockade*. The Senator immediately sprang from the carriage and rushed towards the stand upon which Hynes was speaking. Seeing Clayton coming at him, Hynes jumped from the platform and ran off to a place of shelter, where he remained in safety until Brooks encouraged him to return, and led him back, panting and bareheaded, to the stand again. He continued his speech, but spared any further allusion to the obnoxious cockade. His opponent could listen quietly to charges of official cruelty and corruption. At the mention of the "secession cockade" he gave way to ungovernable rage. Why? Because the former commended him for positions of power

and pelf. The wearing of the badge, which was really a *decoration* of everlasting honor to its wearer, would have *disqualified* him!

When Hynes concluded, the Senator denied the story with characteristic vehemence; gave a history of the advent of Hynes, and described him as a tool and "henchman of as scurvy a set of knaves as had ever eluded the States' prison." He said that Brooks knew this story and similar charges to be lies, and yet instigated this fellow to repeat them.

The crowd enjoyed the scene immensely—admired Clayton's dash, but endeavored to encourage Hynes to badger him again. Hynes was indisposed to retort. He wiped his silk hat with his handkerchief, adjusted his white necktie, and seized the first opportunity to retire. The trio spoke together again at Fort Smith, and then at Greenwood, in the hills southward. Crossing the river to Oliver Springs, they spoke again together. Here Mr. Brooks admitted that he was paid \$23,000, and received sundry shares of stock for his interest in the control of the Cairo and Fulton railroad franchise, but refused to say how much stock of the company he received. And here Hynes again alluded to the "secession cockade," when Clayton denounced him as a *liar* and damnable scoundrel. Hynes again left the stand

and sought protection in the audience. Gen. Hugh F. Thomasson, of Van Buren, was present and encouraged Hynes to take the stand again, but counseled him to cease personalities. Judge Searle, of the Supreme Court, who was known by the sobriquet of "Highland Piper of Hamelin," spoke after Hynes, and reviewed Brooks' political record. Before he concluded, Judge Baxter, Republican candidate for Governor, arrived. He made a speech characteristic of an old citizen, dignified, and avoiding personalities, but charging Brooks with betraying the poor black people, who trusted him.

Thenceforward, Brooks, Hynes, and Baxter and Clayton conducted the campaign against each other. At Fayetteville, Sept. 5th, Clayton spoke. Brooks shed tears at this place, in narrating a case of black-mailing, as he termed it, under pretext of enforcing the United States revenue laws by the Minstrels. He told how an old German, at Little Rock, was robbed by them of a considerable amount of money. Clayton replied and charged Brooks with aspersing the character of Southern ladies. Brooks jumped up and declared the charge was false. Clayton replied that he had a letter in his pocket from a well-known citizen, stating that he heard Brooks say, "There is not a virtuous woman in the South." Mr. Brooks did not call for the reading of the

letter. The subject was one unfit to be discussed by either on such an occasion. The assertion was preposterous on its face. *Iachamoes*, before, have impeached the chastity of women they never saw, who were Imogens of purity.

Baxter and Brooks continued the debate through Eastern Arkansas, until the eve of election. It is due to this history to record that the Republican candidate for gubernatorial honors took no part in these turbulent scenes—was never indecorous in word or act, as became his antecedents. Col. Thomas Newcombe was not more dignified and courteous when he stood for the suffrages of his countrymen.

It will be remembered that the Brindle State Convention, of May 22d, invited "all the friends of free government, law, order and justice to co-operate in the fearful, but determined fight which a wronged and robbed people were waging in response to Greeley's rallying cry, 'Honest men for office: Thieves to the rear!'" The Democratic convention of June 19th, responded by resolving that, "There must be unity of action as well as feeling on the part of all good citizens," and indorsed "the platform of principles(?) adopted by the Reform Republican Convention of May 22d," which was in no sense a platform of principles, but only a string of invectives against Powell Clayton. It author-

ized the Democratic Executive Committee to act with the committees of all Reform Republican organizations opposed to the present administration, in the conduct of the ensuing campaign.

This hope of "unity of action" proved impracticable. At the *first* conference of the Pulaski committees, Democratic-Conservatives, and "Reform" Republicans, the Reform Republicans, Senator Rice being their spokesman, put the Democrats decidedly "to the rear," with "the thieves." The result was the Democrats seceded and threatened to nominate their own party tickets! The estrangement grew until it resulted in a meeting of Democrats in convention, to put out a ticket of their own, and accordingly, on the 1st of October, 1872, the Democratic members of the Executive Committee, uniting with a committee, calling itself a *pure* "Liberal Republican" committee, put in nomination a purely Democratic ticket, with Rev. Andrew Hunter, at its head, who was far from seeking such an office. It was understood that Mr. Hunter had declared his acceptance of this nomination; but such a storm of protest assailed him, from those who considered themselves pledged to Mr. Brooks, that Mr. Hunter precipitately signified his unwillingness to continue on the ticket. So the "new ticket" was withdrawn. October 10th, in an address, specifying the causes of the

movement, and withdrawal of the ticket, signed by B. F. Danley, B. D. Turner, John M. Moore, R. H. Johnson, Solomon F. Clark, E. H. English, J. N. Smithee, Geo. A. Gallagher, E. Thuemmler, "Democratic members Executive Committee." They were men of the highest standing and approved integrity, besides being men of ability and political experience.

The address stated, among the causes that inspired the nomination of the Hunter ticket, the following:

At the same time that the new ticket, with Mr. Hunter at its head, was nominated by the Liberal Republican Committee [not the Reform Republican Committee led by Rice], the acting Governor of the State *agreed in a public correspondence*, for reasons which we are led to conjecture only, without exacting or receiving any promise or pledge from the undersigned or their friends, *to require a fair registration and just count in the coming election*, and issued instructions to his registrars in accordance with such agreement.

It is not denied by any one that, with such a registration from whatever motive guaranteed, which was the most we hoped to obtain by co-operation with Mr. Brooks, the Democratic-Conservative party can easily elect candidates from its *own party*, being largely in the majority in this State. Neither is it to be claimed with truth, that co-operation with Mr. Brooks will bring to us any considerable accession of votes. But, we assert on the contrary, that such co-operation is sure to *drive from* the opposition to radical misrule, a large number of our fellow-citizens. By these considerations, we were actuated in advocating the nomination of the ticket.

The canvass had been hurtful to Brooks and his Republican confederates with such men in the State. He had organized a formidable support, it is true, from the large body of old citizens who stickled for the name "conservative," through traditional hostility to "democracy." This class of citizens adhered to Brooks with a disinterested tenacity truly wonderful. They said, we have formed this association; it has been rather unpalatable to us, but,

"Returning were as tedious as to go o'er."

They not only denounced the Hunter movement as ill-timed, and a hideous mistake, but some of them impugned the motives of the Democrats who countenanced it. They charged that it was a betrayal of the "Reform" party, in aid of the Minstrels, in order that these Democratic leaders might receive a share *or the whole* of \$10,000 said to have been *sent by Grant to aid the Clayton Republicans!* and "for gold, they had been bribed by Clayton and Hadley to put up the Hunter ticket, really in the interest of the regular Republican ticket." In the address, withdrawing the Hunter ticket, the above named patriotic and "honorable men," thus accused, replied to these charges, as follows:

The men who embarked in the movement looking to the election of the *new tickets* could never be actuated by such considerations. The exigency of this moment pre-



sented a "golden opportunity," which, by means of such groundless slanders has been lost; a tide in the affairs of the party which would have led to a brilliant and unequivocal success, and given freedom and peace to our people, has been neglected. By these means our candidates were driven to withdraw, and the movement caused to be abandoned at the very threshold of a rescued State.

There may have been in the "Hunter movement," all its originators claimed for it. James M. Pomeroy and E. Thuemmler, of the [regular] Liberal Republican committee, after full conference with the acting Governor, Hadley, in which they at least were confident and sincere, communicated his purpose to give the committee, which should place a Democrat in nomination, the appointment of all registrars and election judges in the coming State and Presidential election! This proposition would have been deemed preposterous, without ample "assurances."

The Governor had it in his power to keep his word. The Republican detestation of Brooks was unutterable. They were determined that he should never be Governor. His threat to fill the penitentiaries with them, which was amusing to Democrats, may have had a real *dread* for some of them. The Brooks movement looked so formidable, that Clayton himself may have meditated an honorable surrender to the old party of which he had once been

a zealous follower. He would have preferred Hadley as a colleague to Rice. This was the only means of having him such without committing a great election crime that might be followed by revolution or what not!

Or it may have been that acting Governor Hadley conceived that he was in the line of succession and indulged a natural aspiration to go from the gubernatorial chair to a seat in the Senate. He may have been truly willing to give the lawful voters of the State their Legislature, if the Legislature would elect him Senator. Perhaps Baxter, the candidate for Governor, in his speech accepting the nomination, did not express the entire thought in his mind when he declared that he "owed more to Hadley for the *position* he then occupied, than to any other man in the *house*." The great French diplomat said that words are not intended to express the thought. But Baxter's words indicated very clearly that to Hadley's self-denial, or forced repression, he owed the nomination. He wished to announce his recognition of the fact. It did not prevent Hadley from turning his eyes to a seat in the United States Senate, which was then exercising unlimited control—a great imperial parliament, omnipotent—a constitution to itself. The sceptical said he was only double-dealing for the benefit of Baxter and his faction. This

kind of treachery was characteristic of his confreres (a very cheap quality, possessed largely by inferior races of men), but Hadley's general course did not indicate it, and the ends to be accomplished did not call for it.

The Brooks people seemed maddened by the Bourbon defection, as they called it, and prosecuted the canvass without any qualms.

Under the pretended "election" laws, framed to meet the reconstruction acts, the result of the ballot was easily determined "by the will of the commander." If Pomeroy and Thuemmler had been *duped*, their illusion sprang from the only *reasonable hope*—which was to get the appointment and control of election officers. Martial law had been only nominally revoked. As a minion of martial law, which he had gloried in causing, Brooks was but thistle-down before the breath of the "district commander." Mr. Greeley, in a government truly free, had been a recognized "power," but now that he defied the victorious armies which *he had not* called in being, he became an object of contempt to his *old* associates and mistrust to his *new* ones.

The day appointed for the election came round. The mockery of a registration had been faintly observed, and was followed by the performance which men called "an election." What it really was, is described in the depositions

of a large number of witnesses, read before the committee of Congress, of which Hon. Luke E. Poland, of the House of Representatives was chairman, sent to inquire into the condition of affairs in the State of Arkansas. In the report of that committee: 43d Congress, 2d Session, Report 2d, page 97, is the deposition of William F. Grove, an ex-Union soldier and Lieutenant of State Guards, ordered to Pope county, by Governor Hadley. He testified, among other experiences, to the following:

I first went to Pope county, on the 6th of September, 1872. I went there as First Lieut. of State Guards. The Guards had been ordered to Pope county by the Governor. I was in charge of the company. I was commissioned as such by Governor Hadley. When we arrived at the end of the railroad (Perry Station) we found about two hundred and fifty militia. Captain Stuart, Circuit Superintendent of Schools, seemed to be in charge of the militia. The greater portion of said militia looked to be pretty hard cases. Next morning we went into Russellville. The citizens, what were left of them, seemed very glad to see us, as they thought my detachment to be 'regular soldiers.' They said that if we were regular soldiers we would take no part on either side, but would preserve peace. My detachment was uniformed in regular United States uniform. We kept up the impression for three or four weeks that we were regular soldiers. On Sunday evening I was ordered by Gen. Upham, to take three men, together with Mr. J. B. Erwin, of Russellville, and go to Dover, the county-seat (eleven miles north, at the foot of the mountains). On arriving in sight of Dover, I saw quite a number of

armed men drawn up in the street, embattled farmers, and on arriving in town found there between seventy and eighty men. I asked them why they were armed? They told me that Dodson (sheriff of the county, by appointment of the Governor) had threatened to kill some of them, and burn the town. I asked them if they had any idea that he would kill any of them, or burn their town down? They said they did; that he had already partially carried out one threat by killing Hale and Tucker. I stayed with them until about ten o'clock at night. Their statements were, that so long as Dodson and his men were in arms, they purposed to do the same, for the reason that they had applied to the Governor for protection and he had refused it; and the only hope they had of saving their lives and property was by defending it themselves. If Gen. Upham would disband Dodson's militia, they were ready and willing to lay down their arms. All they wanted was peace in the county; and if any of them were charged with any crime, they were willing to surrender themselves to Gen. Upham or myself. I then returned to Russellville and reported to Gen. Upham. On the next Sunday my detachment was moved up to Dover, also Dodson, with his militia [under cover of the supposed regulars] up to within five miles of Dover, where they remained about two weeks. Then they were also moved *into* Dover. His force was about two hundred and fifty men. The people all along had expressed fears that if Dodson came into the town of Dover he would burn the town. There was more trouble in the town on account of this militia than there had been before. They broke into several stores and smokehouses, robbed beehives, henroosts, etc. They were camped in the town about one month. Before they were disbanded *registration was concluded*. He claimed to be there to protect the registrar. The registrar's name was John Martin. I offered to protect

him; in fact he needed no protection. Gen. Upham also offered to protect him.

Dodson and Frank Hickox [the clerk by gubernatorial appointment] were present with the registrar during the whole of the registration. I should have stated that during the registration at Russellville [near the Arkansas river] when the registration commenced [there] one company of Dodson's militia went down there for the purpose of protecting the registrar. I was present in Russellville during the latter part of the first day's registration, and the citizens expressed a good deal of dissatisfaction at the way it was being conducted. A good many of them who had always before (since reconstruction) been registered, were refused; the registrar assigning no reasons whatever for so refusing.

I was present during the whole of the registration at Dover. I noticed that when citizens came in to register, on making application to the registrar he would ask them, 'if they had listed their property.' If they said no, he would tell them 'to step inside, that Mr. Frank Hickox would attend to them.' The registrar would then ask *Dodson*, 'if they were all right?' Meaning by that, as I understood it, would they *vote* all right? If Dodson said no, when the man returned from 'inside' to register, the registrar would tell him that he could not register him. When I speak of Dodson, I mean E. W. Dodson, who was then the sheriff of Pope county. A great many others were refused registration by him, the registrar, saying it was sufficient for them to know that he would not register them. \* \* \* \* \*

Dodson's militia were at Dover during the whole time of the registration, and nearly in full force all the time — about two hundred and fifty men. Dodson was present in the room with the registrar all the time. He had more to say and do about the registration than Martin himself. I don't know that there was a single man of the militia but was registered.

I do not know how many were registered, but almost every man voted that was registered. Dodson's militia, with their arms, were in and about the Courthouse where the registration took place all the time of the registration. They had one room of the Courthouse as a guardhouse. There were some of them present in the clerk's office where the registration was had all the time during the registration and during the sitting of the board of revisers. The citizens that *desired to register had to pass through the militia* to get to the registrar. The registration continued in Dover ten days; in Russellville six days. That was the only registration had in the county, and the only places. The county judge, it was claimed, had divided the county into *two* districts, the northern and southern districts. There was no record ever made of the order on the records of the county. [Grove was afterwards appointed county clerk]. He told me it was so divided for registration purposes only, and that the *intention* was to have the voting done at the various precincts in the county. But there was no election held at any other places than Dover and Russellville.

\*            \*            \*

A day or two before *the election*, reports came into Russellville, that the militia were again collecting, and that they were going to come to the polls armed. On the day before the election Dodson came into Russellville and swore that he would have enough armed men in there next day to run the election as he damned pleased. He also said that he was sheriff of the county and that he proposed to conduct that election. There were armed men about the county. On the morning of the election Dodson's men came into Russellville, in companies, in military order, fully armed. [Witness states how he disarmed them].

Dodson's militia were around the polls all day. I should think there were some one

hundred and thirty or forty. They were crowded around the polls all the time, and any person coming up to vote had to pass through them. I myself was about the polls all day. My force was in the town, but none of them were permitted to go near the polls armed. We were there for the purpose of protecting the citizens in their right to vote.

During the counting of the votes, the day after the election, I noticed Captain Herriott, one of the judges of the election, who took the ballots out of the ballot-box and put them into a hat-box, which he held between his knees. He would then take the ballot from the hat-box, and unfold the ballot and pass the same to Mr. Walker, another of the judges, who then read it off, and passed it back to Captain Herriott. Herriott would then drop the ballot into a basket which sat upon the floor, between his feet. Sometimes, instead of dropping the ticket into the basket, he would drop it back into the hat-box [to be counted the second time]. This hat-box had the bottom torn in such a way that by pressing upon it a little, a person could thrust his hand through. During the counting, Captain Herriott would pick out the Baxter tickets, which could be easily told from the Brooks tickets, by being on different paper, and keep pressing some of the tickets down, when they would fall through into the basket. The bottom of the hat-box was so torn that he could press the parts of the bottom apart, and pass his hand through, which he did occasionally, and when he did so, he took tickets out of the basket. They counted two nights and one day.

A few extracts from depositions of witnesses, residing in different localities, will sufficiently expose the trick of "registration:"

John R. Lofton, of Jackson county, sworn and examined by the Poland committee, stated, p. 280. What do you think about registration

in your county? A. I know that registration was conducted in such a manner as to prevent a good many Conservative voters from registering; as nearly as I can judge, there must have been at least five or six hundred legal voters prevented from registering.

Jordan E. Cravens, sworn and examined. I reside in Johnson county. p. 282. The vote of the county would have stood, at the election in 1872, about 1,000 for the Reform ticket and about 200 for the Republican or Minstrel ticket, as it was known. There were from 300 to 700 each day standing around, seeking to register, but the registrars got through with only about one hundred in three days.

James Coffin, p. 385, sworn, states, I reside in Lawrence county. When the registration in my county was completed there were only 207 names in the book, although the personal tax list of the county for the year showed something like 1,017 voters. At the election in 1872, acting under the construction placed upon the enforcement act of Congress, all voters who had been deprived of their franchise, except those 207, voted at side-polls.

The "side-polls" were employed as the despairing make-shift of the Reform Republican Committee to resist the arbitrary methods (which had returned to plague the inventor) of Joseph Brooks. The act of Congress, of May 31, 1870, authorizing a commissioner of election, and in towns of 20,000 inhabitants a supervisor or supervisors. The act provides that when a *law of a State or Territory*, requires anything to be done by the citizen, as a prerequisite to vote, the offer of the citizen to perform the act, he being prevented, shall

be deemed and held a performance—the citizen being otherwise qualified, shall be entitled *to vote*, was construed to mean, shall have his *vote counted*. But as Mr. Brooks would say, "under orders from these headquarters," it "did not pan out."

The depositions of a great number of witnesses, p. 37 *et seq.*, who voted at the side-polls, after being refused by the election officers in Sebastian county (Fort Smith), are in the following form:

E. H. Devany, being duly sworn, says: I reside at Fort Smith, Upper township, Sebastian county. I registered as a voter in said township, in 1872. I offered to vote at the polls of said township, on the 5th of November, 1872, and was refused. I made the affidavit required by the enforcement act, and again offered to vote, and was refused. I then voted at the side-polls. I voted for Joseph Brooks, for Governor. The ballot I cast at the side-polls was the same I offered to vote at the regular polls.

J. P. Kilgour, sworn, stated, p. 36: I reside in Crawford county. I was present at the polls in Van Buren, in said county, at an election held November 5, 1872, for State and county officers. At noon the polls were closed to allow the election officers to get dinner, in a room in the second-story. A ballot-box had been prepared, containing just the number of votes that were in the ballot-box used by the judges and clerks of election. The judges took the ballot-box up-stairs. At the head of the stairs, the regular ballot-box was changed for the one that had been stuffed. This was all done in my presence. Nearly all the ballots cast in the forenoon were cast by friends of Joseph Brooks. The friends of Baxter refrained from voting until the after-

noon All the ballots in the substituted box were for Elisha Baxter, for Governor. They were the ballots counted by the judges [as cast] when the polls closed at night.

Joseph Spears, sworn, stated, p. 100: About the 1st of October, 1872, as a member of the State Guards, I went to Pope county. On election day, Dodson's militia came to Russellville armed—from one hundred and fifty to two hundred of them. [Then states how Lieut. Grove, his commanding officer, induced them to place their arms in a room he provided for them]. While I was standing around the polls, I saw a great many of Dodson's men vote. I was at both polls during the day (the regular and side-poll). Lieut. Fowler of the Guard, on going to supper, told me to go and see where the ballot-box was. He told me he wanted me to find the box and keep my eyes on it, and see that it was not disturbed. I went to the house indicated. I pushed the door of a back room open, and as I stepped in saw an officer of the election, Captain Herriott, with his hands in the ballot-box. I know it was Herriott, for I saw him after he was killed. The man that led me into the room, was a one-eyed man, but I did not know his name. I know it was the ballot-box, for I had seen the box during the day when the officers of the election were putting ballots into it.

All the witnesses testified that the negroes all voted the green-back, or Baxter ticket. They saw no colored voter cast the white ballot, or Brooks ticket.

These are specimens of the manner of holding the "elections," shown to the Poland committee, occupying several hundred closely printed pages. On the 18th November, the Reform Central Campaign Committee issued their

announcement, that despite frauds, force, etc., by election officers, the entire State ticket, headed by Hon. Joseph Brooks, had been triumphantly elected. On November 27th, their organ, *The State Journal*, published a table of "corrected returns of the election," claiming that the vote for Brooks and his ticket footed up a total of 15,390. It conceded to the Baxter, or Minstrel ticket, a doubtful total of 13,267.

On the same day a mass-meeting of the Reform party was held at Little Rock, and adopted the following resolutions:

WHEREAS, The party in power in this State has in the last election, committed the most flagrant and shameless frauds ever perpetrated in any country, and are yet perpetrating frauds in the *forging* and manipulating of returns and certificates of election, and

WHEREAS, Notwithstanding these frauds, the Reform State ticket, and a majority of both branches of the Legislature have been *triumphantly* elected, therefore, be it,

*Resolved*, 1. That we congratulate the people of the State, etc.

*Resolved*, 2. That in order to *consolidate* the Reform party and *increase its usefulness*, it is deemed advisable to call a State Convention of said party *early in January*, to which end the President of this meeting is directed to appoint a committee of seven to issue the appropriate call, and take such other steps as may be deemed necessary in reference thereto.

*Resolved*, 3. That all delegates to said convention be requested to collect and bring up all evidences of fraud in the late election in their respective townships and counties.

Its president appointed as such committee: Maj. John S. Duffie, Col. W. A. Crawford, Col. L. C. Gause, Hon. B. F. Rice, Hon. E. A. Fulton, Gen. James F. Fagan and Col. S. W. Williams.

The Reform party believed that Brooks was elected, with their entire ticket, by a very large majority. Under the enforcement act of Congress, they claimed the votes offered and rejected at the official polls, together with those that were counted, authorized them to install their officers. It was stated that they proposed to install Brooks as Governor, in the State House, unless forcibly prevented. In that case, they would organize a State government in some other place at the Capital.

Reciting the foregoing resolutions, the committee, on the 21st December, 1872, issued a call for a convention of the Reform party to meet at Little Rock, on the 4th day of January, 1873. The call contained the following rule as to representation:

Each county shall be entitled to one vote in the convention for every one hundred votes cast in the county, in the late election for the candidates of the Reform party and for every fraction of one hundred, fifty or over, and one vote for every one hundred persons unlawfully disfranchised, and fraction of fifty or over. The counties can send as many delegates as they see proper and *all will have* a voice in the convention.

The committee urge upon the friends of the reform movement to hold mass county conventions for the purpose of having their

respective counties fairly and fully represented. The committee respectfully suggest that conventions in the different counties be held on or before the 21st December, 1872.

JOHN S. DUFFIE,  
J. F. FAGAN,  
B. F. RICE,  
E. A. FULTON.

W. A. Crawford, L. C. Gause and S. W. Williams, of the committee, did not sign the call. It will be seen that fifteen per cent of *all the voters of the State*, not acting with the Republican party, were invited to the Capital. Most of them had served in one or other of the armies in the civil war. Col. W. M. Fishback headed a large party from Sebastian county, and walked twenty miles before getting transportation to the Capital, to install Brooks, he said, as Governor, on the day fixed by law. The Colonel had accepted the command of a regiment during the war of Arkansas Federals, but beyond wearing the eagles on his shoulders a few days, did not enter the actual service. He had been preferred for other than military duties and was a candidate for various civil offices. There was great excitement all up the Arkansas River, and an unusual movement of citizens in the direction of the Capital.

The convention met in O'Hara's Hall, passed resolutions and issued an address. The public proceedings gave the impression that practical steps of vital importance

were soon to be taken. But the appearance of Federal troops at the arsenal, and many indications that the Minstrels would be sustained by the central power, caused the most zealous to postpone any immediate *action* that may have been meditated.

In the meantime the National candidate of the Liberal Republican party had died on the Hudson river. His death being hastened by exposure in the campaign and disappointment. He had been in earnest. He desired the accomplishment of greater ends than personal preferment. His last words were: "It is done;" and it was. The restoration of the Union soon followed. He not only clasped hands across the chasm, but leaped into it.

The coolness with which the "Minstrels" treated these demonstrations seemed ominous of their determination to hold the offices. It was plain that the Reformers would like to proceed to take possession forcibly, but feared the silent man at the Federal Capital, who had sent a regiment to "have peace," and who represented the Republican party of the "Nation." The Greeley movement which Brooks espoused had been projected "to beat *him*."

The Minstrels quietly took steps to prevent any violent demonstrations. These precautions are described in the testimony (given afterwards) of the following wit-

nesses before the Poland committee:

John McClure, a witness before the Poland committee stated in answer to questions by Mr. Wilshire, p. 214 of the report of that committee:

Q. With reference to the apprehended danger of a separate government being established here (Little Rock), by the organization of another Legislature, outside of the State House, or in the State House, state if you know, whether Mr. Hadley, the then acting Governor of the State, was not apprehensive of some danger? A. I think he was.

Q. Do you know that he made an arrangement with the proper authorities at Washington to have a regiment of United States soldiers come here in order to preserve the peace at the installation of the new government? A. I do not know.

Q. State what you know about it? A. My impression is, that some representation was made to the President that there was likely to be difficulty here. Who made it—whether it was made by Gov. Hadley, or through other influences, I do not know. I only know that a regiment of United States soldiers came here about that time.

By Mr. Ward. Do you know whether the troops which were stationed at the door of the State House were State or United States troops? A. They were State troops, known as the Governor's Guard. They were uniformed—they had Zouave jackets.

D. P. Upham sworn and examined by Mr. Rice, p. 291. Q. Were you in command of the militia of this State at the time of the assembling of the Legislature on the 6th January, 1873? A. I was.

Q. State whether the State House was under your charge as commander of the militia at that time, and for a few days previous to the assembling of the Legislature; how and whose instance did you take charge? A. Yes. Un-



der a special order from the Governor, Mr. Hadley. I have a copy of the order here.

[Special Order, No. 144].  
ADJUTANT GENERAL'S OFFICE,  
LITTLE ROCK, Dec. 29, 1872

Major General D. P. Upham is hereby ordered to furnish a sufficient force of State troops to duly protect and preserve the Capitol building of this State. General Upham will confer and act in conjunction with the Hon. James M. Johnson, Secretary of State and custodian of public buildings.

By order of the Commander-in-Chief.  
KEYES DANFORTH,  
Adjutant General.

Q. Did you consult with Mr. Johnson? A. Yes. I reported to him, at once, on receiving the order. Q. Was there a military force placed there? A. Yes. Q. What were the instructions of Johnson in relation to the matter? A. I think he gave me an idea of what he thought was necessary to protect the building by making an explanation of what he feared might take place. There had been a State Convention called at the House of Representatives by the Conservative party, I believe. I do not recollect exactly whether that convention was to assemble on the Friday or the Saturday before the meeting of the Legislature. It was thought they proposed to get possession of the hall and hold it if they wanted to.

Q. On what day did you take charge of the Capitol with the militia? A. On the same day that I got the order—the 29th December, 1872. Q. Did you hold it from that time until the Legislature assembled? A. Yes.

Q. Was the State militia in possession at 12 o'clock, when the members of the Legislature assembled? A. I think there were some of them there about that time. I placed a door-keeper at the door of each hall, after the members commenced to come.

Q. Under order from whom did you place the door-keepers? A. By no one's. I did not think the bayonets of the State militia looked very well to be stationed at the door as members were coming in, and I withdrew them, and put a door-keeper at each door.

Q. You had soldiers about there, on hand? A. Yes, there were plenty of them within the building.

Q. What direction did the Secretary give you about permitting men to pass into the halls, and what were your directions to the door-keepers? A. I think his instructions were only to allow those persons to enter who had the tickets which he issued.

Q. Did the door-keepers observe that rule as far as you know? Yes. I was present myself.

Q. After the Legislature met and organized, what did you do with the militia? A. They were all withdrawn from there before the organization.

Q. But they were about the building? A. Yes. They were in the armory.

Q. How many soldiers were there in and around the State House grounds at the time the Legislature assembled? A. About twenty-five I should say.

Q. Were there any other soldiers on hand at any other place in the city? A. No, sir.

Q. Was a whole company out, or picked men from a company? A. Picked men from a company.

By Mr. Howard. Q. From whom did the Governor, or the Secretary of State, or those from whom you got your orders, anticipate trouble? Was it not from Brooks and his friends? A. I do not know who else it could have been.

On the 31st December, 1872, Judge William M. Harrison, former Associate Justice of the Supreme Court, who had been a candidate

for re-election, on the Brooks ticket, filed his bill in the United States Court, at Little Rock, setting out such candidacy, and that Bearden, Searle and Stephenson, were severally candidates for the like office, and that acting Gov. Hadley and James M. Johnson, Secretary of State, had confederated to use their power to defeat him in violation of the election laws and, in short, caused him to be counted out, by depriving citizens of the right to vote, among whom were persons so deprived on account of race and color and former condition of servitude, contrary to the act of Congress, approved May 31, 1870, filling many pages with its charges and averments. It concluded with the prayer:

That defendants severally answer the premises, and bring into court and file the lists in their possession, together with all returns, etc., copies of all instructions to registrars, county clerks and election judges; that said James M. Johnson be required to send messengers to procure returns from counties that had made none, and a general supervisor and the supervisors heretofore appointed by the court be required to make returns of said general election to this court. That said M. L. Stephenson be enjoined from exercising the duties of Associate Justice of said Supreme Court of Arkansas, until the further order of the court, and that E. J. Searle be enjoined from exercising the duties of Associate Justice of said court after the expiration of the term under which he held by previous election, and that Ozra O. Hadley and James M. Johnson, be enjoined from in any manner

altering, obliterating, defacing or destroying any of said election returns or memoranda of the same, until further order of the court, and be required to bring into court all the original ballots cast in said election; and during the pendency of these proceedings that James M. Johnson be compelled, by the order and *mandamus* of the court to grant plaintiff access to all official papers in his office, appertaining to said election, and for all further and proper relief. Complainant's solicitors were A. H. Garland, U. M. Rose, M. L. Rice, M. W. Benjamin, Gallagher and Newton.

Upon his bill thus presented is made the following indorsement:

Temporary restraining order prayed for in this bill is refused. The motion for injunction *pendente lite* will be heard by the Judge at Chambers, on Monday next, at 10 o'clock, A. M., upon complainants giving to respondents four days' notice of the hearing, accompanied by one copy of the bill.

HENRY C. CALDWELL,

Dec. 24, 1872.

District Judge.

While Judge Harrison submitted himself to the law's delays, the more practical and speedy solution of the questions involved, if there were any questions, was adopted by the energetic measures of the faction in power, as related by McClure and Upham above.

A prophetic quiet characterized the action of the State House party during these feverish demonstrations of their opponents. They were by no means asleep, as the testimony above reported goes to show. They were using all necessary precaution to have their ticket counted in, when the two houses of the General Assembly

should meet to declare the result of the election as to the officers. The Constitution made it the duty of the joint session to announce the persons elected, according to law. They had the State armory and militia. They had not only the sympathies of the federal administration, but Governor Hadley had gone to Washington and procured an order of the War Department, granting a regiment of United States soldiers in Little Rock, at the Arsenal grounds, for the undisguised purpose of "preserving the public peace." We know what preserving peace means, under arbitrary power. "Order reigns in Warsaw," is the announcement of the victorious despot.

Before the curtain falls upon the comedy let us look behind the scenes a moment into the Minstrel camp, through the testimony of the veracious Col. E. Nat Hill, who explains some mysteries of the burletta. In his answers before the Poland committee, July 27, 1874, he gave the following testimony. He is as "good as a chorus." Questioned by Mr. Rice, p. 241:

Q. Did you participate to any extent in the election in this State in 1872? A. I was said to have taken a tolerably prominent part in it.

Q. What was your political position in that election? A. I was a Democrat, but refused to accept the nomination of Mr. Greeley and Mr. Brooks as the Democratic candidates, and I canvassed against both of them.

Q. Were you here when the returns from the different counties were coming in? A. Yes, I was here at the time when all the returns were coming in. Some of the returns I saw, and I had a statement of the returns every day, either from Mr. Johnson, Secretary of State, or Mr. Baxter, or some other one of the leading members of the party; generally from Mr. Johnson, who was in my room every day.

Q. About the time the returns were coming in, was Mr. Baxter here? A. He was. He occupied the second room from mine in the hotel.

Q. You and he were together very frequently? A. Not a day passed that he was not in my room or I in his.

Q. You were also very intimate with Secretary Johnson? A. Yes, I had a room in the hotel which was a common place of meeting for all the politicians in the city. They came there every night—the Baxter politicians and some of the Bourbon Democrats. I occupied room No. 49, and Mr. Baxter room No. 50.

Q. When the returns came in did you make any estimates of the results as they came in? A. These estimates were made every day as the returns came in. Each county was put down on the lists we had, and the returns from each county were added to the list, and calculations were made as to how the vote stood.

Q. Did they finally get all the counties, so as to ascertain the vote before the meeting of the Legislature? A. There were some counties from which no official returns ever came. Reports, but no official returns, came from the counties of Scott, Green, Poinsett and Johnson. We added these to the lists, but not to be counted, simply to show how the whole matter stood. These reports were published in the newspapers here.

Q. In what newspapers? A. In the *Journal*; that was Brooks' organ in the canvass.

Q. Have you a copy of that paper? A. I have [produces the table referred to already in the text], thus giving a majority for Brooks of 2,123, after having been doctored by their commissioners, Asa Hodges, McDonald, Wilshire, Montgomery and others.

Q. How does it foot up? A. It foots up majorities for Brooks, 15,390; majorities for Baxter, 13,267.

Q. Counting all the counties, did it come out as it does here? A. Nearly.

Q. What parties went, so far as you know? A. Mr. Wilshire went up in his district; Mr. McDonald went to Fort Smith, although I understood his business was to see Judge Storey; Mr. Hodges went to his district; Mr. Montgomery to the northeastern part of the State, it was said.

Q. What counties were thrown out in order to allow Mr. Baxter to be elected? A. Several townships in Van Buren county; I believe all of Johnson and Conway, except one or two precincts. Green, Poinsett and Scott were entirely thrown out.

Q. After "doctoring" the returns, it required all these counties to be thrown out in order to get Baxter ahead? A. I believe it did.

Q. After the Legislature was organized there was a bill introduced known as the "railroad steal bill." Do you know anything about that? A. I know when and how the bill was introduced.

Q. Can you state briefly the effect of the provisions of that bill? A. Yes; the State had loaned its bonds to certain railroads to the amount of between eleven and twelve millions. There had been issued over five millions. It was a bill to release the railroads from any liability for those bonds, with the understanding that no further issue of bonds should be made. That was the consideration for the State releasing the railroads—that they would not call for any more bonds. For my part, I think the railroads are not liable on the bonds.

Q. Was there any squabble about the bill?

A. Yes. Baxter called me into his room and handed me an election bill which he said was an infamous one. I told him of the railroad bill. He was very much opposed to it. \* \* \*

By Mr. Wilshire. Q. Whom did you favor for Governor in the election of 1872?

A. I preferred Mr. Baxter to Mr. Brooks.

Q. Did you and Baxter and Johnson, at any time after the returns were all in, get the returns all together and foot them up and ascertain that Baxter was *not* elected? A. I think we did.

Q. State when and where that was, and what the result of that footing was? A. The result of the footing was, according to my recollection, that Mr. Brooks was elected by about seven hundred votes, counting *no side-polls*, and leaving off Scott, Green and Poinsett counties.

This much of the witnesses testimony is pertinent at this stage. J. M. Johnson, the Secretary of State, was interrogated as to this point, professing to be friendly also to Baxter, and siding with him in subsequent conflicts. The witness was questioned by Gov. Baxter:

Q. If you ever made an exhibit of anything appertaining to the election returns to me in presence of Nat. Hill, or any other person, state when it was. A. On one occasion, just after you came to the hotel, I told the clerks to take down the sum total of the election, as for instance that Baxter received so and so; Brooks so and so; Johnson so and so; Fulton so and so, all the way down. I did not go to the office to look at it myself. It was just on a piece of paper. I went into your room. My recollection is that Judge McClure was sitting in your room. I do not recollect Nat Hill being there at all. I said to you, 'I reckon you want to see how the thing stands. This is substantially the way the boys

tell me it is.' I stated that I had not added up the columns myself, but they had hastily done so; that it was substantially correct. I do not know whether you or Judge McClure took hold of the paper first, but my recollection is that both of you looked at it.

Q. Did you make any other or further exhibit of the condition of the vote to me? A. I have no recollection of it.

Q. State which of your clerks made out that statement? A. I do not recollect that. They were both in there. I think it was Mr. Curry who made it up, but I am not positive.

Perhaps the most "willing" witness to his own participation in the racy proceedings of this "election" and subsequent organization of the Legislature to decide the official general result, was Judge W. J. Warwick, questioned by Mr. Rice, p. 237. So much of his testimony as will illuminate these transactions is given here. The selection of parts of the testimony of witnesses is not for "garbling" their statements. That only is given which bears upon the point of present interest. Inadmissible statements, as to mere surmises and opinions of a witness, or vague rumors are omitted, not being evidence in any tribunal.

Q. Where do you reside, etc.? A. I reside in Little Rock. I am at present Judge of the Chancery Court of Pulaski county.

Q. Were you elected to the Legislature of 1872? A. I was.

Q. Did you sit as a member of the Legislature which organized on the first Monday in January, 1873? A. I did, in the lower house.

Q. What precincts were you at on the day of election? A. I was in the city of Little Rock, and about all the precincts.

Q. Do you know about one of the judges having his poll-books a little mixed up? A. At the request of Mr. Fitch (registrar for Pulaski county) I went into the Circuit Court room, and found the poll-books and the ballots and the judge himself very considerably *muddled*. He asked me to straighten the thing out for him. I looked over the muddle and left the room in disgust, giving him no advice at all. [The witness himself was addicted to getting very 'considerably muddled' ].

Q. And you actually left the room in disgust at the condition in which you found Saxton's papers and himself? A. Yes. I think it was the second day after the election.

Q. You ran on the Baxter ticket, did you not? A. Yes, or Baxter ran on *my ticket*—I don't know which.

Q. Was Saxton very drunk? A. Yes, sir.

Q. He had the papers out there? A. Yes.

Q. What do you know of his having changed the ballots, or anything on that subject? A. He told me he had changed them, and that he could not make them correspond.

Q. How did he say he had changed them?

A. He was one of *our fellows*, and I suppose he had changed them from Brooks to Baxter. He had the ballots out in two or three different piles—greenback tickets and white tickets, or one kind and another, and he was trying to make them correspond with his returns.

Q. What kind of ballots were they? A. He had all kinds of ballots up there—green tickets and white tickets. My recollection is, that he was at a loss how to fix it up so as to give the *Bourbons* enough votes for a Representative.

Q. Was not Saxton at one time the private secretary, or acting as such for Governor Clayton, when he was Governor, and afterwards for Governor Hadley, who succeeded Governor Clayton? A. I cannot say. I know that he was in the office of both of them, but whether he was private secretary or not, I am not able to state.

Q. Do not this and White county vote together in the same district? A. Yes, sir.

Q. And did not Brooks carry these two counties largely? A. Brooks carried this (Pulaski) county by a small majority—180, as far as returns show. He carried White county by a thousand or fifteen hundred votes.

Q. Then the district went for Brooks? A. Yes, by 1,600 or 1,800 majority.

Q. With the two tickets for the Legislature—your ticket and the Reform ticket, would not your ticket have been beaten? A. I suppose there is no doubt about it. In that representative district, out of six members elected to the lower house, two Bourbon candidates were elected, and four on our ticket were elected.

Q. Was there any chance for the Bourbon ticket to be elected? A. I never thought there was.

Q. Did they make the canvass as if they thought they would be elected? A. House, of White county, made the canvass as if he thought he would be elected. I was laughing in my sleeve at the simplicity of the young man.

Q. Was not John M. Harrell a candidate for the Legislature on the Bourbon ticket? A. He was. He did not claim to be a Republican? A. No, sir, he was a Democrat.

Q. (By Wilshire). Do you know any arrangement between Mr. Harrell and any member of the party on whose ticket you were a candidate? A. I do not.

Q. (By Rice). You were a tolerably active man in the Legislature? A. As active as my constitution admits of.

Q. Some of the witnesses spoke of a resolution (of Furbush), on the subject of contested elections. Were there many Brooks men who contested seats there? A. My recollection is that about *one-half* of the seats in the lower house were contested.

Q. The contestants were mostly Brooks men? A. Mostly. There were some Republican contestants.

Q. Most of the Republicans got on Johnson's roll? A. Yes, sir.

Q. And a good many Brooks men who claimed to have been elected were left off the roll, and contested their seats? A. Yes.

Q. It has been stated that there was an understanding at the commencement that no member was to be unseated. What do you know about such an arrangement? A. I cannot say that there ever was a positive arrangement to that effect. When the lower house was organized, we (I mean the Republicans), had an active working majority in it. There were a number of Democrats whose seats were contested, and a number of Republicans whose seats were contested. Mr. Tankersley's district was contested, and so was Mr. Sarber's; and so was Mr. Turner's. A large number of the contestants for seats, *if investigated* would have been *against Republicans*.

Q. The contests would have succeeded? A. That I cannot say.

Q. But if they had succeeded, it would have been against the Republicans? A. Yes. There was no agreement, but there was a *quasi understanding* between Mr. Tankersley, Mr. Sarber and myself at the beginning (perhaps at my own suggestion) that if all these seats were contested, it would take up one-half of the time of the Legislature to determine them, and might perhaps *develop some things which we did not care to have developed at that time*. But my own reason for it, was that these contests would take up one-half or two-thirds of the time of the Legislature. There was a *quasi understanding* that we would do all we could to prevent any change being made in the complexion of the house, whether by Republicans or Democrats.

Q. You, Sarber and Tankersley were all Republicans? A. Yes.

Q. And the majority of the house were Republicans? A. Yes. The seat of Mr. Sumpter, a Democrat, from Hot Springs

county was contested, and I think we gave him to understand at the beginning that he need not have any apprehension, as we did not propose to have any changes made in the organization of the house.

Q. That house was organized on the list furnished by the Secretary of State? A. Yes.

Q. The members went in under passes? A. I believe we all had passes.

Q. Nobody else was allowed in at the preliminary organization? A. No, sir.

Q. And afterwards you and Tankersley and Sarber had a *quasi* understanding that no contests would be allowed to succeed and no changes would take place in the body? A. I think *we had that understanding before we went in.*

Q. That you would go on the roll and no changes of members should be made? A. Yes, sir.

Q. And you gave Sumpter to understand that that was the fact? A. My recollection is that Sumpter was given to understand that that would be the case.

Q. When the resolution to that effect was adopted afterwards was it not voted for by Republicans and Democrats almost unanimously? A. My recollection is that there was no dissenting vote.

Q. The understanding was made *before you organized*? A. Yes.

The General Assembly was required to meet every two years, on the first Monday in January. To it was committed by the Constitution the duty of opening and publishing the returns of the election for Governor, Lieutenant Governor, Secretary of State, Treasurer, Auditor, Attorney General and Superintendent of Public In-

struction and declaring the result. This was exclusive of any other power or tribunal—Art. vi. Sec. 9. All contested elections for Governor were required to be decided by joint vote of both houses, over which the President of the Senate should preside. The contestant was required to present a petition to the General Assembly, stating the grounds of his contest and praying for leave to introduce proof. Thereupon, if leave should be granted by a majority of the whole vote of both houses, a joint-committee was required to be appointed to take testimony on behalf of each party to the contest, with power to send for witnesses and authorize, by warrants issued to justices of the peace, to take depositions of witnesses, at a time and place in the warrant specified, on reasonable notice to the opposing party. The committee was required to report the facts to the two houses, which in joint session were authorized to decide the contest by a vote upon call of the *yeas* and *nays*, to be taken and entered upon the journal of each house.

It remained to be seen whether upon the returns presented the General Assembly would be governed by the law, their oaths and duty to the people, or boldly violate and defy them in the determination to exercise their arbitrary will and for their own personal ends.

NOTE—The Democratic Convention, after the proceedings above had June 5, 1872, agreed to a committee, of which Judge Thomas B. Hanley, of Phillips, was chairman, to confer with a like committee of "Brindles" for reforming the State ticket, with which there was great dissatisfaction on part of Democrats.

The committee of this conference met not long after the adjournment of the convention and agreed to the following substitutions of candidates on the Brindle ticket of May 22d: For Associate Justice of the Supreme Court, instead of John Whytock, substituted the name of John T. Bearden; for Attorney General, instead of W. P. Grace, substituted Ben T. DuVal; for Presidential electors at large, instead of M. L. Rice and S. M. Barnes, substituted R. C. Newton and J. E. Cravens; for District electors, instead of G. W. McLane, R. L. Archer, J. H. Demby and E. J. Brooks, substituted J. H. Fleming, Poindexter Dunn, George P. Smoote and Walter O. Lattimore.

The vote in the election of 1872, in Boone County, hereto appended, is a fair criterion of the vote in Northern Arkansas:

OFFICIAL ELECTION RETURNS OF BOONE  
COUNTY.

*Presidential Electors.*

*Jordan E. Cravens.....	717
*Robert C. Newton.....	717
*James H. Fleming.....	717
*Poindexter Dunn.....	717
*George P. Smoote.....	717
*Walter O. Lattimore.....	717
†D. S. Griffin.....	209
†W. W. Granger.....	208
†Thomas H. Barnes.....	208
†W. H. Howes.....	203
†Arthur Hemmingway.....	204
†L. G. Wheeler.....	206

*Governor.*

*Joseph Brooks.....	721
†Elisha Baxter.....	202

*Lieutenant Governor.*

*Daniel J. Smith.....	728
†V. V. Smith.....	197

*Secretary of State.*

*Edward A. Fulton.....	697
†James M. Johnson.....	197

*Auditor.*

*James R. Berry.....	740
†Stephen Wheeler.....	185

*Treasurer.*

*Thomas J. Hunt.....	729
†Henry Page.....	197

*Attorney General.*

*Benjamin T. DuVal.....	733
†T. D. W. Yonley.....	195

*Superintendent Public Instruction.*

*Thomas Smith.....	731
†J. C. Corbin.....	195

*Judges Supreme Court.*

*William M. Harrison.....	732
*John T. Bearden.....	732
†M. L. Stephenson.....	200
†E. J. Searle.....	196

*Superintendent Penitentiary.*

*William L. Cook.....	718
†H. R. Robinson.....	193

*Congressman at Large.*

*William J. Hynes.....	737
†John M. Bradley.....	193
†W. D. Padgett.....	1

*Congressman Third District.*

*Thomas M. Gunter.....	746
†W. W. Wilshire.....	186
*Reform. †Minstrel. ‡Independent.	



SEVENTH PAPER.

"Is there, among the greedy band  
Who 've seized on power with harpy hand  
And patriot worth assume,  
One on whom public trust can rest?  
One fit to wear Elisha's vest  
And cheer a people's gloom?"

—George Canning.

The "Minstrels" in possession of the State House and control of the machinery of government, had no idea of vacating the one or relinquishing the other. Their haughty confidence suggested the conquering power of the central government. It was evident they based reliance on the President and their ability to sway his action. They bade defiance to the numbers and representations of the "Reformers." The negro mania of the North, so long depended upon to sustain the power of Congress, had not abated a whit with time. Again it was appealed to, upon the theory that an armed force in the "rebellious States" was required to protect the freedmen.

Not in drunken orgie, but with deep, *religious* fervor, they proclaimed, like Parson Jones, in Cable's "Old Creole Days:"—"The tiger and the buffler *shell* lie down together." It was the righteous thing to send a regiment of U. S. Infantry to occupy, at that juncture, the United States Arsenal, at Little Rock for the protection of the *freedmen*. That sentiment continued to exist, co-

temporarily with a commercial "protection." We behold Rutherford B. Hayes, upon accepting the conditions of securing the Presidency, lifting up his voice in lamentation for "the poor freedmen." We exterminate the Indians, and slaughter the Chinese, but piously cherish (for voting purposes) the tariff-taxed negro—through hatred of his *former* master, who resisted unconstitutional legislation.

The Reform County Convention met in a private hall in the city. It appointed a large body of delegates to the State Convention which met, January the 5th, in the same hall. The State Convention organized temporally but failed to induce the members elected to the legislature on the Brooks ticket to unite with them in the formation of a separate government. They realized that the object of the convention was completely frustrated. Those who were elected as Democrats to the Legislature, after viewing the convention, accepted the passes of Secretary of State, as we have seen, and recognized the Clayton-Hadley Legislature as the legitimate body. The Reform Convention beheld this betrayal with unspeakable indignation. After two days in secret session, the convention adopted, as the result of its deliberations, a resolution in open session, "That it was impracticable to inaugurate Mr. Brooks

Fishback,\* from the same place, as Governor, at the *present time*." Mr. James Brizzolara, of Fort Smith, an impulsive son of Italy, advocated immediate installation, "if he had to do it himself." Mr. Fishback said, "since blame must be visited somewhere, in explanation of insurmountable difficulties, he attributed the defection "entirely to the course of the Little Rock Gazette."

The convention adjourned, after appointing a "State Central Com-

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\*[Col. Fishback, twenty years after the occurrences here mentioned, in a speech at the State House at Little Rock, in 1892, when a candidate for Governor of the State, thus referred to his advocacy of Brooks:]

In 1872 we elected Joseph Brooks Governor, *we Democrats*, by about 25,000 majority. We heard that the Republican party intended to resist his instalment. A number of us in Fort Smith—I made my will—started to Little Rock and walked fifteen or twenty miles of the way, to install Brooks at the point of the bayonet if necessary. We heard that Gen. Grant intended to interfere, and of course we acquiesced.

We had voted for Brooks, not because he was Joseph Brooks, but because he promised to relieve us from reconstruction and restore power to the people. Subsequently we found that Joseph Brooks was going to take up reconstruction where Powell Clayton left it off, and that Baxter was the man to release us of reconstruction. We would have been false to our country if we had failed to sustain Baxter, as we did.

II.

mittee," of which James L. Witherspoon was made the chairman. This committee was created and vested with powers distinct from the Democratic State Central Committee. An analysis of the composition of the convention will show that its members were not all Democrats. They were a gathering somewhat like that which went to David in the cave of Adullam. Its leaders were Joseph Brooks, militia champion; R. F. Catterson, the drum-head general; B. F. Rice, Texan emigrée; his brother, the railroad attorney, and J. L. Hodges, penitentiary lessee. It appointed a committee "to prepare an address to the people," as was usual. It adopted the following resolution:

WHEREAS, Latta and Sumpter, of Hot Springs; Cunningham, of Izard; Wright, of Carroll; Matheny, of Fulton; Parrish, of Desha; Brown, of Prairie; Thrower, of Ouachita; Gilbreath, of Scott; Breidenthal, of Washington; Pindall, of Chicot; McVeigh, of Mississippi and Askew, of Columbia, reform members elected to the General Assembly, have disregarded the wishes of their constituents in joining with and organizing a "Minstrel" Legislature, and failing to participate in the inauguration of Hon. Joseph Brooks as Governor,

*Be it Resolved*, That they are hereby placed upon the *roll of infamy*.

Appended also were other resolutions condemning "their actions as disgraceful;" holding up the persons named "to public scorn," denouncing them as "*unworthy of*

further association with the Reform Party," and requesting Reform journals to publish the resolutions. And this was the "lame and impotent conclusion."

Mr. Jacob Frolich (who had taken a trip to Canada to evade the pursuit of Clayton's militia, but returned and was conducting his paper, the *Searcy Record*), said of the convention, editorially: "It is reported, and no doubt correctly, that the Brindle Reform Convention was the grandest failure of the season. Were all the money taken away from Wall Street, New York, it could not look blanker than did The Select Few's phizes on the day that the Democratic members of the Legislature *refused to have any thing to do with them*, either in accepting their *modus operandi*, or political association. It shows that the bone and sinew of the country does not relish *brindle steak*, even when well seasoned."

The address prepared by the committee of the Reform Convention was not published until the 23d of January, but expressed the more sober view of the committee by declaring that "the members of the Legislature who, *by grace of Clayton*, had been *permitted* to sit in the Legislature, had made a fatal mistake; but the committee would concede they *were not prompted by corrupt motives*, but acted upon what *they believed* to be their duty to their constituents." The address was signed by J. L. Wither-

spoon, J. S. Duffie, Granville Wilcox, Wm. Glass, M. L. Rice and W. M. Fishback.

Mr. Fishback, in 1862, had edited the "Unconditional Union," a newspaper, in Little Rock, opposed to the Southern movement and thenceforward acted with the Republican party. But he now espoused the Greeley movement. He had too much political sagacity to lend himself to unqualified aspersion of citizens.

A bill in chancery to decide a contest for the office of Governor of Louisiana was filed, at this time, in Judge Durrell's court,—similar to Judge Harrison's suit against Stephenson and Searle. It contained the averment, which Harrison's case did also, that persons otherwise qualified had been deprived of their right to vote, "by reason of race, color," etc. This averment, Judge Durrell claimed, gave his court jurisdiction under the enforcement act of Congress. He granted an injunction which excluded the "Reform" legislature of McEnery from the hall they rented. He was eventually sustained by Gen. Grant, the President, who issued a proclamation and gave military orders to disperse the McEnery government and install that of Kellogg. This action proceeded on the theory which inspired "Posson Jones's" wild "dictum," that "the buffler *shall* lie down with the tiger." It was modified,

to be sure, so as to admit the *lying down*, on the part of the buffalo, *inside* of the tiger, after being swallowed. This remedy, which was grounded on deprivation of right, on account of race, was available by *one* party, but denied to the other. It could not be pleaded by Brooks, who had no negro following.

The two houses of the General Assembly of Arkansas, as organized for the State-house ring, by James M. Johnson, met at the State House and proceeded to declare themselves ready for business on the 6th of January, 1873. At half past three o'clock in the afternoon, they met in joint session in the Representatives' hall to count the returns for Governor, already so carefully counted, but supposed to be for the first time laid before them by the President of the Senate. He was required by law to receive the returns and keep them until so counted. He received them from the Secretary of State; necessarily, it seems, since the presiding officer of the Senate had been only that day chosen *pro tem.*, until the person elected Lieutenant Governor could be ascertained.

The manner of the organization of these bodies was dramatic, and will be best described by witnesses who were present as members, and who afterwards testified to the facts of such organization before the Poland Committee of

the 43d Congress, appointed to investigate affairs in Arkansas. John M. Clayton (a brother of Powell Clayton), who was President of the Senate, and Benton Turner, among the (recognized) members of the House of Representatives, testified before the Poland Committee, Little Rock, Ark., July 20, 1874.

John M. Clayton, recalled, examined by Mr. Rice (p. 193):

Q. Were you in the Senate when it was organized on the first Monday in January, 1873? A. I was.

Q. A portion of the Senators held over from the previous session? A. Yes.

Q. One-half of the Senators are elected every two years. They all hold for four years? A. Yes.

Q. You were a new member at that time? A. Yes.

Q. Who organized the Senate? A. Senator Beldin, of Hot Springs, a former member, called the Senate to order and nominated Senator Torrans for temporary chairman. Senator Torrans, being elected, read over the list of new members as returned by the Secretary of State. They were sworn. I was elected President *pro tem.* and the other officers were elected by the same vote.

Q. The former Secretary of the Senate did not organize that Senate? A. No, sir; Senator Beldin called it to order.

Q. How was it ascertained who the new members were? A. Senator Torrans said he found the list on the President's stand—placed there, I suppose, by the Secretary of State.

Q. And they were sworn in then? A. That is my recollection. They were sworn by Judge Underwood.

Q. How did the new Senators get into the room? A. They walked in.

Q. Was there any pass required? A. Yes, I believe tickets were given us by the Secretary of State. I had forgotten that.

Q. Who distributed those passes? A. The Secretary of State, I believe.

Q. Were any other persons allowed in except those who had passes? A. I think not.

Q. You had the thing all to yourselves, and went in and organized? A. Yes.

Q. Did not Wishard contest his seat? A. Yes; he contested the seat of Hanks.

Q. Was he not summarily ruled out, on technical grounds, without the merits being gone into? A. Yes. He was ruled out on the technical ground that he had not conformed to the statute and given the notice of contest in time.

[Similar questions as to P. H. Wheat.]

Q. Was the present Secretary of State the Secretary of State previous to that election? A. Yes.

Q. Was he a candidate for Secretary of State at that election? A. He was.

Q. And was declared elected at that election? A. He was. His name is James M. Johnson.

Q. Were you at the House of Representatives when it organized? A. No, I was in the Senate. Both houses organized at 12 o'clock.

### Examined by Mr. Wilshire :

Q. How long did you act as president *pro tem.*? A. I acted for one day only. The Lieutenant Governor was sworn in and took his seat on the night of the first day, V. V. Smith.

Q. Were you not president *pro tem.* of the Senate at the time of the counting up and announcing the vote for Governor?

A. Yes. That was done on the first day. It was done before the vote for Lieutenant Governor or other officers was counted. The law requires that the vote for Governor shall be counted in the presence of *both houses*. As to the other executive officers, the vote is required to be counted only in the presence of the Senate.

Q. State who received the largest vote as declared by this convention—Mr. Baxter for Governor, or V. V. Smith for Lieutenant Governor? A. I do not recollect. My impression is that it was about the same. The returns will show that.

Q. The two bodies in joint session determined only the vote for Governor? A. Only the vote for Governor.

Benton Turner, returned as member of the House from Conway County, was examined with others as to the organization of that body. Question by Mr. Rice, after introducing in evidence a section of the act of July, 1868. "Sec. 54. It shall be the duty of the Secretary of State, on the first day of each regular session of the General Assembly, to lay before each house a list of the members elected agreeably to the returns in his office."

Q. Were you returned as member of the Legislature in 1873, as supposed to have been elected at the election in 1872? A. Yes.

Q. Did you sit in that body? A. Yes.

Q. Were you present when the House was organized? A. Yes.

Q. What military force had possession of the hall of the House of Representatives then, the city police or State militia? A. I am inclined to think there were some of both.

Q. Are you sure there were some of the State militia, and if so, under whom? A. My understanding was that Col. Main had charge of the squad of State militia. I never talked to Col. Main in regard to it.

Q. Did you go in immediately when the doors were opened? A. Yes.

Q. How did you succeed in getting through the armed men? A. We had passes.

Q. From whom? A. I am not positive now who distributed the tickets. I do not know whether they were handed me by Cooper or Tankersly.

Q. Who first went into the House? A. I think Tankersly and Sarber and myself.

Q. Who put Tankersly in nomination as temporary chairman? A. I am not positive whether it was Sarber or myself. It was one or the other.

Q. How soon was that after you went in? A. It was immediately on getting inside.

Q. On your going down the aisle? A. Yes; before we got to the chairman's stand.

Q. And whoever made the nomination put the vote and declared it carried? A. Yes; the motion was put and carried and the declaration made before Tankersly got to the stand.

Q. He went to the stand in a good, fast walk, did he not? A. Yes.

Q. What was done in the organization of the House—how did it proceed? A. It proceeded in the regular way. A caucus had agreed upon a full organization after the temporary organization. We had a caucus previous to going in, at 12 o'clock on the 6th of January, and we had agreed upon our organization of the House, and then we proceeded to organize in the regular way.

Q. Did the clerk of the prior House appear and organize it? A. Yes; the clerk

of the House of Representatives in 1871. His name was Richards.

Q. What did he do towards organizing? A. He came in with the roll, framed by the Secretary of State, I think.

Q. What was the *prima facie* case on which you all acted in there? A. The certificate of the Secretary of State.

Q. You mean the roll of the Secretary of State? A. Yes, sir.

Q. How many in that body were elected on the ticket with Brooks? A. My recollection is that there were thirty-six. The entire number of members was eighty-two. There were thirty-six of them elected on the ticket on which Brooks ran.

Q. Did they go in at the same time with the rest of you? A. I think all of them went in at the same time, with the exception of two or three. I think two or three absented themselves for a day or two. They were not absent more than two or three days.

Q. Was there any talk here of organizing a separate Legislature of men who claimed to be elected on the Brooks ticket? A. That was my understanding.

Q. Where had they proposed to organize? A. My understanding was they proposed to set up an outside government. I never understood that they themselves had arrived at a definite conclusion as to the place at which they would open, whether at Fletcher & Hotze's hall, or O'Hara's.

Q. By some means, that fell through? A. Yes.

Q. After you organized, what action was taken in regard to any question of contest—to general action on the subject of any contest? A. After the House had been permanently organized, committees were appointed. I was on elections. There were several contests presented for the consideration of the committee. I think that perhaps one case

was disposed of. The report of the committee was based on the technical ground of want of notice as required by our statutes. There was then a resolution offered by some member, declaring all members then sitting, members of the Legislature, and it was passed almost unanimously by Democrats and Republicans. I do not know whether such a resolution is on the journal or not.

Q. Such a resolution was offered, that the members then sitting should be declared members of the House? A. Yes, and that there should be no further contests entertained. That was a resolution of the House. We had been discussing the Pindall matter, and all the contests came up on this want of notice. The committee came in and made a report, on which there was considerable discussion. During the discussion this resolution was offered, I think by Mr. Furbush (colored member), and it was adopted almost unanimously. The Election Committee never entertained another contest, or had another meeting after that.

Q. Was Secretary Johnson a candidate for Secretary of State at the election of 1872? A. He was.

Q. He was elected, if elected at all, at the same election with you? A. He was.

### Questioned by Mr. Wilshire.

Q. You were not sure whether it was you or Mr. Sarber who put Tankersley in nomination? A. I am not positive in regard to that. The understanding was, that we should nominate him as soon as we got in. Mr. Tankersley started up the aisle, and before he got to the chairman's stand, he was declared elected.

Q. And there was nobody there at the time, except you and Sarber and Tankersley? A. Other members were coming along, but we entered first, and before Tankersley could reach the Speaker's chair, he was nominated

and declared elected. Our friends were all right at the door, and were coming immediately as fast as they could get in. Of course they could not all get in at the same moment. As soon as we were inside the nomination was made, and Tankersley proceeded right down the aisle.

Q. Then there could not have been many members in besides you three, if you were the first to enter? A. By the time the thing was through, there were probably twenty members or more in the hall.

Q. Was there a quorum present? A. I reckon that is questionable.

Q. You stated that there was a caucus—of what party? A. It was the caucus of the Republican party.

Q. How many Republican members were present at that caucus? A. I think every Republican member of the House.

Q. A quorum of the House was present at that caucus? A. Yes.

Q. This organization, which you speak of was made through an arrangement entered into in caucus of a majority of the House? A. Yes; the organization was made under the understanding adopted at that caucus.

January 6th, the committee from the House of Representatives, having announced that body ready to receive the Senate to canvass the election returns for Governor, the Senate proceeded to the Hall of Representatives, where the following proceedings were had:

HALL OF THE HOUSE OF REPRESENTATIVES, }  
Jan. 6th, 1873, half-past 3 o'clock p.m. }

The President of the Senate called the joint session to order and ordered the call of the roll. The Secretary of the Senate called the roll of Senators, and the following Senators answered to their names: Askew,

Beavers, Beldin, Brooker, Caraloff, Clayton Coit, Dawson, Dooley, Dugger, Elliott, Frierson, Gallagher, Goad, Hanks, Hodges, Holland, Howard, McChesney, Ratcliffe, Thomas, Torrans, White of Phillips, White of Pulaski.

The Clerk of the House of Representatives called the roll of Representatives, and the following members answered to their names: Berry C. E., Berry J. H., Beardsley, Brown N., Brown C. F., Bridenthal, Chapline, Corbell, Cleveland, Coit, Copeland, Chapman, Crowley, Cunningham, Davie, Erwin, Eagle, Fox, Furbush, Foster, Gist, Gilbreath, Gossett, Grissom, Hawkins A. M., Hawkins O. S., Hawkins M., Havis, Hynds, Harley, Johnson A., Johnson J. H., Joyner, Kingston, Kent, Lee, Lynn, Latta, Murphy J. M., Murphy W., McLeod, Marshall, McGehee, Merritt, Miller, McVeigh, Matheny, Mitchell, Nunn, Page, Pindall, Parrish, Rawlins, Reed, Robertson W., Robertson H. H., Sarber, Shingley, Sheppard, Spears, Stephenson J. S., Stephenson A., Strong, Sumpter, Stewart, Turner, Thrower, Thomasson, Tillar, Thornburg, Warwick, White, Wheat, Walker, Williams, Wright, Mr. Speaker Tankersly.

A quorum of each house being present, Senator J. M. Clayton, President *pro tem.*, said:

"GENTLEMEN OF THE GENERAL ASSEMBLY: The day and hour having arrived for counting the returns for Governor, the Secretary of the Senate will read over the returns and the proper tellers will count out all the votes cast for every person voted for as Governor."

The Secretary of the Senate then read the returns, which, when footed up, resulted as follows: Elisha Baxter, 41,684; Joseph Brooks, 38,726; A. Hunter, 1; Joseph Brook, 50; Baxter, 11; E. Baxter, 113; Brooks, 133; U. S. Grant, 1; William Byers, 1; A. H. Garland, 1.

The presiding officer announced that "Elisha Baxter, having received a greater number of votes than any other candidate, was duly elected Governor of the State of Arkansas, for and during the term prescribed by the Constitution."

A committee composed of Senators and Representatives was appointed to notify the Governor-elect of the result of the canvass, and learn his pleasure. The committee returned, and Elisha Baxter coming in was introduced to the joint Assembly and delivered his inaugural address. When he had concluded his address the oath of office of Governor was administered to him by Chief Justice McClure; and the joint Assembly dissolved. Thus the Minstrel faction retained its hold upon the machinery of the State government, and their newly-chosen executive was inaugurated.

The delegates to the reform convention adjourned subject to call of their State central committee. The "Minstrels" were jubilant and the "Brindles" correspondingly unhappy, the carpet-bag element among them still meditating measures for overthrowing their rivals and retrieving their fallen fortunes. They urged the maintenance of their State and County organizations, and held themselves in readiness to seize every opportunity that might afford a hope of a successful assertion of their right to the offices to which their candidates



had been undoubtedly elected. "The select few," as Frolich denominated them, never despaired.

On the 11th of January the demurrer to Judge Harrison's complaint, modelled after that filed by Kellogg against McEnery, was argued before Judge H. C. Caldwell, U. S. District Judge. He sustained the demurrer, on the ground of want of jurisdiction of the courts of the United States to hear and determine a contest for a State office. He announced the maxim that it was a fair presumption, that a cause is *without the jurisdiction* of the courts of the United States, until the contrary appears, being courts of *limited* jurisdiction. This proposition he argued to be sustained by IV. Dallas Reports, 8; VII. Cranch, 32; Id. 506; III. Blatchford, 84; I. Dillon, 341. The 23d section of the enforcement act, he held to confer jurisdiction only in case of a denial of the right of a citizen to vote, "on account of race, color or previous condition of servitude." As counsel had *frankly stated they had not been able truthfully to allege* denial of right to vote on that ground, the injunction and writs and relief prayed for would be denied, and complainant be remitted to the courts of his State, in which exclusive jurisdiction over cases of contested election for State offices, except some enumerated offices, was

vested from the origin of the constitution.

At the election, in joint session of the General Assembly, for U. S. Senator to succeed B. F. Rice, the Democrats at first voted solidly for A. H. Garland, thirty-five votes; the Republicans dividing upon T. M. Bowen and Stephen W. Dorsey, giving the former twenty votes and the latter forty-three, Alex. McDonald five, and W. W. Wilshire one. On the 18th of January, the Democrats changed to Dorsey, except Senators Askew and Friereson; Representatives, J. H. Berry, Cote, Cunningham, Foster, Harley, Matheny, Pindall, Thrower and Tillar, who continued to vote for Garland; and Beavers, Gossett and Thomasson, who voted for "Little" David Walker, and Parrish, who voted for R. C. Newton; fifty-two votes being necessary to a choice. Dorsey was elected, receiving eighty-seven votes, Garland eleven, Walker three, and Newton one. Dorsey was reputed to be a "boodle" candidate, but this seems to have been largely on paper. He conferred on Mr. Garland the appointment of attorney of his paper railroad, from Helena inland. But Clayton believed that Garland was still bent upon a seat in the Senate and would be his rival ultimately.

(On the 10th of February, the Republican elections for President and Vice-President of both Arkansas and Louisiana for the candi-

dates of both parties, were rejected at Washington, because of alleged irregularities. Thus fourteen votes of the electoral college were counted out. But they would not have changed the result, it was so largely in favor of the reelection of Grant.)

The *Helena World* of Feb. 7th said of the election of Dorsey to the United States Senate :

"S. A. Dorsey has been in our State about two years, all told. About half of that time he was not a denizen, his family remaining in his cherished home, Oberlin, Ohio. He is unknown to the people of Arkansas. He came here to promote his railroad interests. He obtained State, County and City aid, under the most solemn pledges. By trickery, hocus-pocus and legerdemain, the gauge of the road was changed from standard to narrow gauge, as adopted. To-day we have a wheelbarrow road from Helena westward, costing nothing in comparison with the one he professed to come here to construct."

March the 3d, the election upon the constitutional amendment resulted in its adoption, by a large majority.

The candidates for Congress, on the Conservative ticket, Gunter and Gause, were importuning Governor Baxter for certificates of election. They had received none from Governor Hadley, who pretended to canvass the election, and merely proclaimed the result of the vote in the case of Gause and Gunter, Democrats. Hadley had proclaimed Snyder, Minstrel, elected over Bell, and Hynes, Re-

former, over Bradley, and issued these two certificates of election, which entitled them to seats. The others had given notice of contests to their opponents, Wilshire and Asa Hodges, Minstrels. Gunter's notice was served and published in the papers March 12th, and that of Gause March 14th, Governor Baxter declined to issue the certificates. He remitted the contestants to Congress. Hodges really abandoned his case by remaining in the State Senate.

On the 31st of March, Mr. Benton Turner, claiming to represent Conway County in the House, introduced the following bill, which immediately became a cause of discord that revived the dormant antipathies of the factions, and produced results of far-reaching and of incalculable moment. It was designated the "Railroad Steal Bill," but was entitled by its introducer :

*An Act Amendatory of and Supplementary to An Act to Aid in the Construction of Railroads; approved July 1st, 1868:*

*Whereas*, In pursuance of the above entitled act, the State issued her bonds amounting to \$5,200,000, and the Railroad Commissioners have power to add \$6,200,000 to the amount so issued when road-beds of railroads shall be prepared for iron; and

*Whereas*, Bonds have been issued to railroad companies to the amount of \$1,000,000 for road-beds upon which no iron has yet been placed; and

*Whereas*, Said railroad companies have become otherwise indebted to the State in

their present condition, not completed or fully equipped, and without iron rails or ballast are of no security or value to the State; and

*Whereas*, To complete said roads, and to limit further issue of State bonds and to induce said railroad companies to release the State from the further issue of bonds, etc.

Section 1. Be it therefore enacted, that any railroad company which has received the bonds of the State of Arkansas to aid in the construction of its road, or become otherwise indebted to the State, which shall deliver to the Treasurer of the State, certificates of full paid stock of such company not liable to assessment, equal in amount to the bonds which have been issued to said company, or other indebtedness, and any railroad company now existing or which has been or shall be organized by purchase or otherwise, are authorized, by a vote of the majority of the directors of said company, to issue and deliver to the Treasurer of the State the amount of stock herein indicated, which when tendered and delivered by said company shall release the same from the payment of the principal of said bonds delivered to said company and the interest or tax due thereon and from any and all liability to the State arising out of the delivery of said bonds to said railroad company under and by virtue the provisions of An Act entitled An Act to Aid in the Construction of Railroads, and for any other indebtedness; and that the treasurer shall execute and deliver in the name and behalf of the State a receipt for said stock, and discharge said railroad company from the payment of said bonds, interest or tax due thereon, and any other indebtedness for which said stock was delivered.

*Provided*, That any railroad company shall be entitled to the provisions and benefits of this section whenever the board of directors or a majority thereof of said company shall, within ninety days from the passage of this act, file with the board of railroad commis-

sioners written acceptances of the provisions of this act and a release of the State from a further issue of bonds and of the right to demand the same.

Sec. 2. Be it further enacted, that any and all demands which may be declared upon said railroad stock delivered to the State, shall be paid to the treasurer of the State and shall be set apart as a separate fund, to be applied by him exclusively to the payment of the interest on said bonds and to their redemption when they become due.

Sec. 3. Be it further enacted, that the shares of stock held and acquired by the State in the said railroads, in pursuance of the provisions of this act, shall have the same rights as the shares of other stockholders, and none others; and the Governor shall designate an agent to vote the said stock at all meetings of the stockholders.

Sec. 4. That a tax of three mills on the dollar is hereby levied on all the *real and personal property* in the State, subject to taxation, for the purpose of creating a fund for the payment of interest on said bonds and the reduction of the principal. And it is hereby ordered and declared, that the taxes collected under and in pursuance of the levy herein made, shall be collected in lawful money of the United States, and used for no other purpose than the payment of such interest and principal of the same.

Sec. 5. That this act shall take effect and be in force from and after its passage, and all acts or parts of acts inconsistent herewith are hereby repealed.

[Mr. Pindall (Democrat) of Chicot, upon the first reading, moved that the bill be rejected, in order, he said, "to test the sense of members as to this gigantic steal."

White of Crawford (Republican), voted with the Democrats to reject. Pindall's motion was voted down, ayes only 29, nays 41.

Turner, the reputed author of the bill, had been declared elected member for Conway county, where negroes were the principal electors. There were great numbers of them on the plantations along the Arkansas River. He had been originally Sheriff of the county, appointed by Clayton. He was an avowed political wrecker, and loud-mouth supporter of all measures of oppression and extortion, of unlimited gall, a modern Ancient Pistol. He had been chosen to introduce the bill by its real framers, who preferred, for obvious reasons, to remain in the background.]

The introduction of the bill to release the indebtedness of the railroad companies, and tax the people in currency to pay interest on the bonds, aroused the public indignation and alarm. It was regarded as indicating the commencement of a new era of spoliation, exceeding anything yet inaugurated. The motion of Pindall sounded the alarm. The Democratic newspapers caught it up immediately. The *Gazette* of Little Rock thus commented upon its introduction and the refusal of the House to postpone it:

#### THE BIG STEAL.

"At last, the big railroad steal, or the measure donating to the railroad companies and bondholders \$5,200,000 of the bonds of the State, has been introduced into the House. Benton Turner, a carpet-bagger of the deepest dye, who never earned a dollar in Arkansas by the sweat of his brow, and who is supposed to represent Conway County, is the fitting instrument through which the measure was launched into the House yesterday. It seems that all the Republican members of the House, save one or two, have already been secured in

support of the measure. A motion to reject the bill was voted down by the Republicans except Mr. White of Crawford voting for the motion. The bill not only makes a present of the bonds to the railroad companies (for every one knows that the *stock* of the companies, which is to be delivered under it is worthless), but it levies a tax on the people of three mills in currency on the dollar, to pay the interest.

"We believe that every vote given for the bill has been *purchased*, in one way or another. Its supporters should be held up to public scorn and contempt for all time to come. The tax to be imposed by it, suppose only \$5,000,000 bonds have been issued, and the taxable property is \$100,000,000, will be \$300,000 annually in currency. The depreciated State scrip in the hands of the people not receivable.

"All roads which had been built or equipped through aid of the bonds of the State, owed the State interest on them at 8 per cent. *per annum*, and this was a lien on the road-beds and tangible property. The bill was drawn to release them from this lien and interest and taxes due by them to the State. It will discharge not only that accruing on the bonds issued under the act in aid of the railroads, but interest on money loaned years before the passage of that act—\$94,000 advanced as interest on the bonds issued to the Fort Smith and Little Rock Railroad, and \$44,000 accrued interest on the Memphis and Little Rock Railroad.

The entire expenses of the State Administration prior to reconstruction had at no time exceeded One Hundred and Fifty Thousand Dollars. Here was to be added, in one measure, not called for (and proposing to violate the Constitution) a tax of double that sum. The Constitution required a vote

of the people at the ballot box to authorize a loan of State credit (Art. X. Sec. 6). If loaned, by vote of the people, it required the same authority to revoke the contract, or modify it, in order to create out of it a new indebtedness. A similar attempt in Missouri was declared invalid by the Supreme Court of that State. During the agitation of this nefarious measure attempts were made to commit Governor Baxter in its favor; and that appearing to fail, to create the belief "that he had pledged himself to it, but had become alarmed at the public opposition, and refused to fulfill his pledge."(?)

The attitude of the Governor towards this bill was the great controlling cause of the alienation of such influential leaders of his party as Chief Justice McClure, Asa Hodges, H. M. Cooper, Stephen Wheeler, John M. Clayton, and finally, as a sequence, Senator Powell Clayton.

The Poland investigation into the causes of the alienation of the Claytons, McClure & Co., goes into the subject at great length, and fully develops the fact, that McClure's dislike of Baxter grew out of his final opposition to *this measure*, and refusal to be the mere instrument of "a ring" of political wreckers, rather than Governor of his State which he had sworn and pledged himself to his neighbors to be, according to

the best of his ability, in conformity to law. Powell Clayton was drawn into the alienation by McClure.

Chief Justice McClure, at the same time that he was a judge of the court of last resort in the State, had an interest in, and frequently wrote for, the Little Rock *Republican*, the "Minstrel" organ. To show that he did not regard these several occupations as incompatible or conflicting, there is his testimony on oath preserved in the Congressional records of the Senate investigation of the methods of the election of Senator Clayton to a seat in that body, pp. 344, 345.

Questioned, by Mr. Barnes, as to his receiving levee bonds, in any transaction, McClure *declined to answer*.

Interrogated by Senator Norwood.

Q. What was the *consideration* for those bonds? A. For the bonds I received?

Q. Yes. A. *My services*.

Q. Your services in what way? What were your services connected with? A. *In the passage of the bill!*

He was then the Chief Justice of the Supreme Court of the State.

Questioned by Senator Clayton.

Q. I am interested to ask you, if you did not at one time, while you were Judge of the Supreme Court, receive for your services as a judge, the sum of \$3,000 in money from Milton L. Rice, of the City of Little Rock? A. No, sir.

Q. Neither directly nor indirectly? A. Neither directly nor indirectly. Right there I want to make a statement. I was connected with the *Little Rock Republican*. [He was Judge of the Supreme Court from the adoption of the Reconstruction Constitution until the Constitution of 1874 displaced it.] Milton Rice, as the President of the Cairo & Fulton Railroad Co., came to me and had a conversation. In that conversation he desired to ascertain of me, if I could control the columns of the *Republican* from attacking the Cairo & Fulton Railroad, as they were about submitting propositions to the different counties to vote county aid. I said to Mr. Rice, that I did not know whether I could or not, that I would ascertain. I satisfied myself upon that point, that I could control the paper to such an extent that articles would not appear against the railroad. I went to Rice and so stated to him. Mr. Rice then proposed to pay me \$2,000 in money and \$12,000 in paid-up stock of the company in the event that I would control the paper to that extent. I said I would not give him a picayune for the Cairo & Fulton stock. He then said he would pay me \$6,000 in money to keep the *Republican* from attacking the road. I said I would take it. Very well. There were no writings about it of either the one or the other. Mr. Rice assured me upon his personal honor that the \$6,000 should be paid. I controlled the columns of the newspaper in accordance with my agreement. After the work had been performed and the election was over, I went to Mr. Rice one day and told him I wanted some money. He went off on a tangent and said that I had gone to a party by the name of Smith, and some other parties down there, who were to make a contract for that road and had prevented his making that contract; that Hodges and Benjamin and others were growling and refused to pay the \$6,000. I then said to Mr. Rice that I had nothing to do with Hodges, Benjamin or Senator Rice,

or with the railroad, one way or the other; that he had pledged me his personal honor for the payment of that \$6,000 in the event that I should do as I agreed, and I had done strictly as I had agreed to do. Said I: "Mr. Rice, you can pay this or not." Said he: "Whatever I pay I will have to pay out of my own pocket, as Hodges and others refuse to contribute to the payment." He then gave me a check on the Merchants' National Bank for \$600 and his acceptance for \$2,400.

Q. That made \$3,000? A. That made \$3,000. The other \$3,000 I did not get.

Senator Clayton's object in drawing out this testimony can only be inferred. If it was to show the peculiar methods of the Rice and Cairo & Fulton people, it was more remarkable as the transaction of a judge of the Supreme Court. The Senator confined it to a period "while the witness was a judge of the Supreme Court." The transaction was in no way connected with the judicial office.

The newspaper McClure had thus controlled for the Cairo & Fulton railroad people, the *Republican*, was the outspoken advocate of the railroad bond bill. Mr. Wilshire had published an article in the *Gazette* of April 8th, denouncing the bill, in which he said: "I have heard it whispered that, if the Governor should veto the bill, articles of impeachment would be preferred against him. If such is the policy of the bond thieves then I say, 'lay on, McDuff!'"

To this the *Republican* replied :

This one-man power was given to the executive to hold the Republican party in power. No man in the executive chair, before this time, ever threatened to use it to carry out his personal wishes.

The Representatives who voted for the bond bill were elected by the same votes and appliances which elected Judge Baxter and Judge Wilshire (claiming a seat in Congress). They are the men to whom the latter are indebted for their present position. If it be true that the Representatives do not represent their constituents, what assurances have we that Gov. Baxter and Judge Wilshire are the favorites of the people. Our impression is that the less said upon this subject the better. From what we know of the last canvass, we should advise either Gov. Baxter or Judge Wilshire not to court a very rigid examination into the title to their offices."

The bill having passed the House, went to the Senate, where it was amended by striking out the three-mill tax, or any special tax, to pay interest on the bonds. It was then returned to the House for concurrence in the amendment.

Upon this the Little Rock *Republican*, controlled by McClure, said :

The bill will now go to the House, where it will pass, and from there to the Governor, who will veto it. From the executive, it will come back to the House, where it will also pass, and become a law. The fight against the bill by the executive and his friends will be bitter and strong. We understand that the entire official patronage of the executive department is to be used to defeat the bill.

We say, stand firm! The Governor's appointments *need confirmation* by the Senate. The vote of that body yesterday, in the face of the Governor's hostility to the bill, shows that the appointing power is not altogether in his hands. Attempts to pay for men's votes by appointments to office will not be consented to by the Senate.

Down with the one-man power! It is time a lesson was taught the men who would thwart the will of the *party*. We say, strike at the root, and never cease striking until this contumacy and pig-headedness has been taught its first lesson.

"One-man power!" It was he that contrived it. "How soon the whirligig of time brings in his revenges."

In the Senate, fourteen Republicans voted for the bill. Seven Republicans and all the Democrats voted *against it*. The seven Republicans were Dooley, Duke, Elliott, Good, McChesney, White (colored) of Phillips, and White (colored) of Pulaski.

Upon the Congressional investigation of affairs in Arkansas, the following testimony was elicited on the subject of the contest over this shameful measure :

E. N. Hill, having been sworn, examined by Mr. Rice, p. 446.

Q. Was there a great squabble on the bill?

A. Before the bill was ever introduced, I was passing one day from my room in the Metropolitan Hotel, and going by Governor Baxter's room, he called me in and handed me an election bill, I think it was,—a printed bill which he said was a very infamous one. I did not like it, myself. I think his principal objec-

tion to it was, that it would make Lieutenant Governor Smith the appointing power, instead of himself. There were several other objectionable features in it. After we finished talking about that bill, I told him that a railroad bill would be introduced in a short time, and I gave him a sketch of its provisions. We talked about it for some time. He was very much opposed to the bill. I had learned its provisions from Mr. Sam Tate, of Memphis, and from conversations with Alex. McDonald. These gentlemen were very much interested in its passage.

Q. And Baxter was opposed to it? A. Yes.

Q. Did he afterwards change his mind or his action on that? A. There was a great dispute in the Legislature about the bill, and it raised a great deal of talk. I believe that the original bill passed the House at one time by a small majority. I think Mr. Baxter said he would veto it. I know that he was very much opposed to its passage, and that it was the cause of political difficulty between himself and some leading Republicans. The bill was amended, but the amendment made very little change in the nature of the bill. A very strong effort was made to get Gov. Baxter to withdraw his opposition to it. Going to my room one night, between eleven and twelve o'clock, I understood before I went up stairs that a gentleman was in Baxter's room endeavoring to get him to sign that bill. [This is inaccurate, as the bill would not be ready for his signature after the amendment by the Senate, until submitted to the House again.] I mean the amended bill which was to be presented the next day. I had heard the gentleman was authorized to offer Gov. Baxter some pecuniary reasons for withdrawing all opposition to the bill. [The Gentleman was Asa Hodges, of Crittenden county, opposite Memphis, and Sam Tate, of Memphis, and the Memphis and Little Rock

Railroad Company's agents had doubtless started and talked of a purpose to corrupt the Governor.] As I passed Gov. Baxter's door, the two gentlemen were standing together. I did not stop to listen to the conversation, but I heard Baxter say: "You can tell them that I will not oppose the bill if these things are all made up right."

Q. You did not know what "these things" were? A. I did not, only by what I had been told.

Q. Do you know what the parties were prepared to put up as "these things"—that \$25,000 was ready to be given Baxter if he would withdraw his opposition to the bill? A. I had heard some such talk as that.

Q. And Baxter's remark to this man was made on the subject of that railroad bill? A. I suppose it was. (?) I had been informed that the gentleman had gone there to consult him with reference to it. I had been informed by the man who sent him.

Q. Was the bill revived the next day? [Col. Hill's answer to this last question shows his imaginings to have been unworthy of him, and that he did not know enough about the bill to form a correct idea of a conversation in regard to it.] A. The bill was brought into the Senate next morning in an amended form! [The amendment, as we have seen, was a Senate amendment, and it had to go thence to the House. Mr. Rice should not have cross-examined his witness so closely.]

Q. For some reason or other, the thing fell through, and Baxter still opposed the bill? A. Yes. He still opposed it, and it did not pass.

It is due to Gov. Baxter to give his version of the circumstances attending this transaction and similar ones. In his letter, written to the New York *Herald*, in



May, 1874, and which was inspired by later events, he said :

I had scarcely been installed, when the Chief Justice and his friends began a series of demands in partial or total violation of every pledge upon the strength of which I had been elected to office \* \* \* in short, I had to choose between being their tool or their enemy.

I may name, among the measures of which they attempted to compel my approval, the subsidy bill, by which certain railway companies were to be released from payment to the State on account of bonds issued to them for the construction of their respective lines, about \$6,000,000: the metropolitan-police bill, which proposed to constitute the State a metropolis, the police of which should have power to arrest without warrant any citizen of the State, and drag him for trial at the capital; an election bill concentrating in the hands of three men, designated a board of canvassers, and having for their chairman the Lieutenant Governor, not alone the power of appointing judges and clerks of election, but also the supervision and *review* of all proceedings and *returns* of election; a triumvirate, which could have held the liberties of the people in the perpetual grasp of a clique. When it was discovered that I could not, and would not lend my influence or give my consent to measures such as these, persuasion and intimidation gave place to attempted bribery and kindred propositions of a most disgusting character.

After the adjournment of the Legislature, there was a calm on the surface of political affairs in Little Rock. *The Republican* studiously withheld all further criticism of the executive. It even paid him "mouth honor" which the reader knew to be "breath,"

and it repressed any number of curses, not loud, but deep. Attorney General Yonley was manifestly perturbed in spirits. He took long aimless walks, and chewed up many handfuls of peanuts. His partner, Mr. Whipple, wore a most somber aspect. There were flittings to and fro between their offices and the State-house; the occupants of which all held authority by the same warrant that Baxter held, but who would be glad, in some way, to question his authority. The Rices and McClure had become companionable. The two newspaper organs were billing and cooing. On May 11th, the *Little Rock Gazette*, published the following paragraph entitled :

#### WHAT DOES IT MEAN?

There is a rumor current that the Attorney-General will file an application before the Supreme Court, at its meeting on Monday, for a writ of *Quo Warranto* against Governor Baxter. If he is not entitled to the office of Governor, by reason of the election frauds in November, neither is the Attorney-General, nor the Lieutenant-Governor, nor Associate Justices Searle and Stephenson, claiming positions under that election, to entitle them to consider such application.

Notwithstanding public expectation, no such action was taken. Nearly a month elapsed. On June the 3d, the Secretary of the State Central Committee of the Democratic party, at the office of the committee (his law office), received a visit from Governor Baxter. The

Governor, who had never before entered his office, informed him that notice that application on the *relation* of Joseph Brooks to test the validity of the Governor's election, would be presented to the Supreme Court the next day, and he would have to employ counsel to represent him. He said the movement was absurd, as the court would have no jurisdiction, but the issuance of such a writ would cause trouble and should be prevented if possible. He asked the Secretary to oppose the filing, or demur to the jurisdiction for him at the time notified. The Secretary reflecting upon the importance of the proceedings, and the character of the Judges of the Court, promptly assured the Governor that the matter was of such momentous importance to him, and to the State, it should be represented, with the greatest care, and by the ablest and most experienced counsel. The Governor replied with a smile, that he *trusted the Court*, and did not think that it would have any difficulty in arriving at a just conclusion. His nonchalance was astonishing.

And then several of the leading members of the bar were mentioned. It was argued that it would be unwise to entrust the destiny of the State and people to any who were known to have had transactions with the members of either wing of the Republican party, however harmless such trans-

actions may have been. Then ex-Judges English and Compton were named. They had been Judges of the Supreme Court, and were lawyers of experience and ability. Judge Gregg, an old citizen, and the soundest lawyer on the bench, had a high regard for Judge English. "Be it so," said the Governor, "if they will accept the employment."

The Secretary accompanied him back to the State-house and, on the way, hinted that it might be well to employ an armed guard for himself and his books and papers in future. The Governor laughed at what he deemed an exaggerated idea of the danger threatened. The Secretary proceeded to seek the two ex-judges. He found Judge English at McNair's barber-shop, and went with him to his office over Risen's store (Tucker's corner). Judge English fully approved the idea of an armed guard, and Captain John C. Peay was agreed upon as the commander. Judge Compton accepted the employment. Governor Baxter consented to the protection of the militia, and Captain John C. Peay and his company, composed of the first young men of the city, were that night *quartered in the Executive wing of the capitol*.

The argument in this *quo warranto* proceedings lasted until noon of the 5th of June. That afternoon, Judge Lafayette Gregg delivered an oral decision of the

Court, which held that the writ should *not issue*, on the ground that the Court had *no jurisdiction* of such a contest; that the jurisdiction was in the General Assembly alone. The reasons for the opinion would be given thereafter in writing. The Chief Justice, McClure, announced that in proper time he would file, in writing, the reasons which compelled him to dissent from the decision of a majority of the Court, which he did. The case is reported in 29 Ark. These proceedings, and the prompt action of the Governor, produced a tremendous sensation in the city and all parts of the State to which they were communicated. Offers of aid and armed support came to the executive from all quarters and from men of all parties. Senators Clayton and Dorsey, who were in New York, before a decision was announced by the Court, telegraphed their disapproval of the application for *quo warranto*, and their sympathy with the Governor. Clayton's dispatch was as follows:

NEW YORK, June 3d, 1873.

*His Excellency Elisha Baxter:*

Quo Warranto proceedings against you have been inaugurated without my knowledge or approval, and are in my opinion unwise and highly detrimental to the interests of the State. My judgment did not approve your late action (calling on the military) because I did not believe that such a move was seriously contemplated, and even if contemplated, I regard the calling out of the militia as prema-

ture. Nor would I now advise any show of force, unless a forcible attempt should be made to oust you. I believe you are the legitimate Governor of Arkansas; and as much as I regret to see our State disgraced abroad by distractions at home, I hope you will stand firm, regardless of results.

POWELL CLAYTON.

Jack Agery, Brooks' colored friend, said on hearing this dispatch: "Clayton's got his eye on a seat for second term in de Senate. But if he sticks to Baxter, Brooks will set down on dat eye yit."

Senator Dorsey's dispatch of the same date, also from New York, was brief and unequivocal:

*To Governor Elisha Baxter:*

You have the unqualified support of myself and friends. The revolutionary proceedings instituted will not be sustained by the people.

S. W. DORSEY.

The dispatch of Senator Clayton, embodying the lecture to Baxter upon having called on the military to guard the executive office was, to say the least, unreasonable. It was as impracticable as to counsel an Arkansas River planter not to erect his levee against a flood until his fields should be overflowed. Clayton, under the circumstances, would have dissolved the court. Arkansas securities must have immediately gone down in Wall street several points. Senator Dorsey's dispatch was more direct and frank. He condemned the quo

warranto proceedings for displacing the executive by a co-ordinate department in violation of all precedent and the provisions of the constitution, as "revolutionary." It was revolutionary, conceived in a spirit of disregard for law and contempt of the decision of the Legislature (alone having authority), which had just passed upon the right of Brooks to contest the election.

The propriety of calling in military aid had been considered by Gov. Baxter. His office, in the west wing of the capitol, was accessible at all times to any and all who might see proper to enter. The Sheriff of the county, Col. William S. Oliver, upon whom devolved service of the process of the Supreme Court, was a partisan of McClure & Co., and bold to utter recklessness in the performance of a congenial service. Had the court ordered the writ of *ouster* contemplated by the proceedings instituted, or other process for securing the possession of the executive office, Oliver would have been in the executive office with his force in an instant, and the Governor been compelled to contend for possession from without. The Governor, as commander-in-chief, had a right to protect his office by a military guard when he was thus menaced by revolutionary and unlawful proceedings. Clayton, himself, would not have hesitated a moment, and would, in

a similar case against him, have sworn out an affidavit against the Attorney-General and caused his arrest under the statute against treasonable conspiracy and usurpation of authority.

The decision of the court gave great satisfaction to citizens, as an assurance that it was the end of official contests; that an era of tranquility had arrived at last. They sought to express their gratification in a serenade to the Governor on the evening of the 9th of June, in the State-house yard. There was a large crowd in attendance. The Governor responded by an earnest appeal in justification of such action as he had deemed it necessary to take, claiming it to be solely for the public welfare. After a brief history of the events leading up to the application for *quo warranto*, and his precautions to prevent violence, he said:

Under these circumstances, and with a knowledge of many of the more secret movements and declarations of those bad men, who had been urged to violent extremes, by being thwarted in their many efforts to rob and plunder the people, I felt fully justified by every rational consideration not only to fortify and defend myself against these desperate intrigues, but to put myself in a position that, if need be, I might meet force with force, and repel violence with violence.

It is a source of great happiness to me to know that I was not only spared the sorrow and humiliation of an actual conflict, with all its attendant evils, but still more so that in my efforts to strengthen the executive arm I

was supported by the ready response of my most worthy fellow-citizens of all parties and colors, and was not driven to the necessity of inflicting the slightest injury to any interest, or of interfering with the forms of law, or disturbing, in the least degree, the ordinary currents of social peace and order.

None but his enemy or an interested schemer hesitated to commend his course. It had been a negative action, it is true, but was borne with firmness and courage. He had been in great peril but his success in the crises thus formed, seemed to augur a triumphant vindication. These difficulties were thought to be at an end. The two organs gave forth angry mutterings and vague threats.

Ordinarily, the decision of a court of the dignity of an Appellate Court of a State is supposed to be certain and final, unless modified or overruled upon formal petition and notice. Four of the five Judges, Gregg, Bennet, Searle and Stephenson had agreed in deciding that this Court had no jurisdiction in a contest for the office for Governor. The Chief Justice, McClure, openly dissented from this opinion. It is difficult to believe that officials occupying their positions, would descend to juggling and yield to intrigue, before they could conveniently reduce their decision to writing, and cause it to be entered upon the record. The history of the travails of the Court in finally delivering its opinion is both amusing and humiliat-

ing. If some of them were not the tools of political bosses, they were belied.

The fact is, the Court was about to adjourn when the application for *quo warranto* was attempted to be filed. It decided against its jurisdiction, and adjourned without putting the decision in writing.

Judge M. L. Stephenson was one of the Supreme Judges who sat in the *quo warranto* case, though claiming his election at the same election and by the same returns relied on by Baxter. His testimony will fully explain the views of those whose interests or positions led them to consider the subject of those legal controversies. Upon them turned the destiny of the State. Gov. Baxter afterwards charged him with betraying him.

M. L. Stephenson, sworn and examined by Mr. Rice (report of Poland Investigation, p. 266):

Q. State your residence and occupation?

A. I reside in Helena, Arkansas. I am a lawyer.

Q. Were you formerly Justice of the Supreme Court? A. I was.

Q. Were you present on the bench when the *quo warranto* case of Brooks and Baxter was introduced? A. I was.

Q. What question was submitted to the Court in that case? A. The Attorney General filed an information, or rather asked leave of the Court to file an information, in the nature of a *quo warranto*, on the relation of Joseph Brooks against Elisha Baxter. [The Attorney General did not appear in the name of the State.]

Q. Was the question made by Attorney General Yonley as to how much was before the Court: and was an announcement made by the Chief Justice as to what the Court would hear and decide in the progress of the case? A. My recollection is not very distinct upon those matters. My recollection is, however, that at the opening of the case it was proposed by Mr. Baxter's counsel to argue the merits of the case touching the jurisdiction of the Court to hear and determine such a suit. I think Mr. Yonley, who appeared for Mr. Brooks, objected to that question as premature.

Q. Did he, Yonley, only appear for Mr. Brooks, or did he appear as Attorney General? A. He appeared as Attorney General. The suit was filed on the relation of Mr. Brooks.

Q. Did he file it as Brooks's private attorney, or as Attorney General? A. As Attorney General, as a matter of course. On that point the Court retired for consultation. My recollection is that when we retired into the consultation room a vote was taken as to what question the Court should hear. The first vote was taken as to the *jurisdiction* of the Court to hear and determine such a case. It was decided that, as to the jurisdiction of the Court to hear a contested election case, the Supreme Court had *no such jurisdiction*.

Q. What was the announcement made by Chief Justice McClure? A. After that we agreed that the questions which should be submitted would be on the motion of the Attorney General for leave to file. That was the motion to be heard.

Q. What was the announcement of the Chief Justice as to the question which the Court would try? A. I am not prepared to say what the announcement of the Chief Justice was.

Q. What did the Court decide to an-

nounce? A. The Court decided that the Attorney General would not have leave to file.

Q. Who made that announcement? A. Judge Gregg, on behalf of a majority of the Court.

Q. Was that entered as the judgment of the Court? A. I never saw the record, but I presume it was. The records were under *control of the Chief Justice*.

Q. Who was to draw up the opinion? A. The oral announcement was made on the last day of the session, in the afternoon. The Court was ready to adjourn, and would have adjourned, but for that business, which was presented at the heel of the term. I think we extended the term one or two days for the purpose of hearing and disposing of that case. When the oral announcement was made by Judge Gregg it was agreed among those members of the Court who concurred in the opinion, that we would file no written opinion at that time; that each of the concurring judges was to write up his views, and that at the November sitting one of the judges would deliver the opinion of the majority of the Court in writing.

Q. Was it understood that you were to meet and agree upon the opinion when you got together at the next meeting. A. Yes; we were to meet on the 20th November and then submit our views.

Q. You adjourned with that understanding? A. Yes.

Q. Was there ever any consultation afterwards in the entering up of the opinion as was then contemplated? A. The proceedings were afterwards somewhat irregular. [Witness here narrated the whereabouts of the Judges in their summer vacations, and their return, at the urgent request of Governor Baxter, to consider matters of great public importance. Judges in those days wandered about everywhere, traveling on railroad

passes.] On our arrival here I was informed by several gentlemen who were my friends and the friends of Governor Baxter, that a suit was pending in the Pulaski Circuit Court (I may have known that before I went away) of the same nature of the one that had been decided in the Supreme Court, and that it was apprehended, unless the opinion of the Supreme Court was reduced to writing and put on file, Judge Whytock (of the Pulaski Circuit Court, a Clayton appointee—now in sympathy with Brooks), would take jurisdiction of the case, on the plea that he did not know what the opinion of the Supreme Court was, and render some kind of judgment in it. So it was considered of great importance that the opinion of the Supreme Court in the *quo warranto* case should be reduced to writing and placed on file, so as to be authoritative on Judge Whytock's court. I understood that Judge Gregg had been also written to to come to the capital. The difficulty then was how to get the concurring members together for consultation, and to reduce the opinion to writing. It was agreed that we should correspond with Judge Gregg, and, if he were not able to come, that we would, by mail, interchange views and arrive at a conclusion.

Q. When did you first see this opinion (producing the opinion on the *quo warranto* case)? A. I wrote to Judge Gregg and he submitted his views. He drafted that opinion and sent it down here.

Q. When was that? A. That was in the early part of September, I think. Perhaps the opinion as perfected was not received until the latter part of September. It took some time in correspondence.

Q. Had he signed the opinion? A. Yes.

Q. Go on and state what you know about the slip of paper which is annexed to it; where it was written, and by whom? A. I was very intimate with Judge Caldwell—Judge

of the U. S. District Court—who was a warm friend of Governor Baxter. When I got Judge Gregg's opinion, I took it up to Judge Caldwell, and showed it to him, or rather read it to him. He made some suggestions about it. The particular objections which he had to the opinion was that no where in it was there an epitomized statement of the case in short form, so that the public and everybody interested would readily grasp it. He suggested a change, or that there be interpolated at the end of the opinion a summarized statement of the points contained in it. He met Judge Searle and myself in the library of the Supreme Court the next morning. I sat down and embodied what I conceived to be Judge Caldwell's ideas, telling him, however, that I thought they were all in the opinion already. He admitted that they were, but said they were not in such concise form as they could be understood generally by the public. He was not exactly satisfied with what I had written, and he wrote himself a statement of what he conceived ought to go to the public, and in that Judge Searle and myself agreed. It was substantially what the opinion was. I copied it in my own handwriting, and when I wrote to Judge Gregg I sent it; perhaps I mentioned Judge Caldwell's name, and asked him if it met his views to copy it in his own handwriting and send it to me with authority to add it to his opinion. He did so, and I appended it to his opinion. That is the history of the fly-leaf.

Q. Had you signed the opinion before that was appended? A. No, sir.

Q. Had Judge Searle? A. I think he had. I think he signed it with the understanding that it should go in. I know that he was present when it was sent to Judge Gregg, and we agreed that if he should concur and send it down it would be appended to the opinion.

(After some testimony to the friendly rela-

tions of Judge Caldwell to Baxter.) Q. Was the wording of the opinion, the so drawing it as to attempt to exclude the jurisdiction of the Circuit Court influenced in any way by the desire to prevent martial law? A. There is no question but that the intention of framing the decision was that the Circuit Court should not take jurisdiction.

By Mr. Wilshire.

Q. Judge Caldwell wrote the *addendum* as being the summary of the opinion? A. Yes. I do not think he desired to add anything new in the opinion. As he stated, it was a general summary, and such a one as the public could grasp without difficulty. I do not deny that on reflection, he did suggest the language, "neither this, nor any other court" [can exercise jurisdiction in a case of contest for the Governor's office].

Q. Would you have filed the opinion whether Governor Baxter had disbanded the militia or not? A. I think that in all probability I would.

Q. Do you know of any positive demand being made upon Gov. Baxter, or statement made to him, that unless he disbanded the militia, that opinion would *not be filed*? A. I do not personally. I only know from statements of Governor Baxter himself in regard to it. He told me that the reason he complied with that demand was, that he was threatened that unless he disbanded the militia, he could not have the benefit of the opinion.

Q. Did he say that the threat came from any member of the Court? A. No, sir; he made the above statement, after the disbandment of the militia. He said the person who made the threat said, "I am not authorized by any member of the Court to make the statement, but I believe that will be the case."

Q. Do you know who that person was?

A. I know who Governor Baxter said it was, but I have my own opinion whether it was said or not.

Q. Who was it that Governor Baxter said told him so? A. He said it was Senator Clayton. Judge Caldwell and Senator Clayton were the only two persons who went to Baxter about it.

#### THE FLY LEAF.

"Under the constitution, the determination of the question as to whether a person exercising the office of Governor has been duly elected or not is vested *exclusively in the General Assembly* of the State, and neither this *nor any other court of the State* has jurisdiction to try a suit in relation to *such a contest, be the mode or form what it may*, whether at the suit of the Attorney General, or on relation of the claimant through him, *or by an individual alone claiming* a right to the office. Such issue should be made before the General Assembly. It is their duty to decide, and *no other tribunal* can determine that question.

(Signed.)

"L. GREGG.

"M. L. STEPHENSON.

"E. J. SEARLE."

April 15, 1874, by a remarkable coincidence, the anniversary of the mustering out of Upham, and the reorganization of the militia under Wilshire and Newton, little John Whytock, *de facto* Judge of the Pulaski Circuit Court, called up the *usurpation* case of *Brooks against Baxter*, at the instance of Whipple, Benjamin and Burton, attorneys of Brooks, in the absence of the attorneys of Baxter, and caused to be entered the following judgment:



"The demurrer filed by the defendant to the complaint of the plaintiff, having heretofore been submitted to the Court, and taken under advisement, and the Court being sufficiently advised of the law arising thereon, *overrules* the said demurrer, and the said defendant *failing to answer*, and there being no answer to said complaint, the same is taken for confessed(!)

"It is, therefore, ordered and adjudged, that Joseph Brooks, named in the complaint, and plaintiff in this action, is, and he is hereby declared to be *entitled* to the *said office* of Governor of Arkansas, and all books, papers and other appurtenances thereto belonging by virtue of the election in said complaint mentioned.

"It is also further ordered and adjudged, that the said plaintiff recover of the said defendant the sum of two thousand two hundred and eighteen dollars with interest thereon at the rate of six *per cent. per annum*, from this date, until paid, also his costs in this behalf expended, for which he may have execution."

Laymen as well as lawyers, will perceive the clandestine nature, as well as the unjust character of this judgment. It was rendered upon technical "confession" and false statements that the case was submitted. It was made *final* without warning to the defendant or his attorneys. It gave recovery for certain *sums of money*, without proof, or inquest of damages, and expresses the *interest* to be recovered thereon. Its phraseology is prophetic of its futility. In the very wording of the judgment, justice was heard interpolating her reversal of it. This judgment was followed by motions of Baxter's

counsel, one to correct the entry which was granted, another to amend the judgment so as to show the cause had not been submitted, another to set aside the judgment, which were *overruled*, which order denying defendant leave to amend the record entry, that it may show that said cause was *not* submitted by defendant or his counsel, and to set aside, the plaintiff prayed an appeal to the Supreme Court—where no action could be had immediately.

Meanwhile, as Governor Baxter states in his *Herald* letter:

By an extraordinary coincidence Mr. Brooks and his friends were convenient to the scene of the judgment. Without awaiting the issue of the writ of *oust*, and upon the overruling of the demurrer, no moment of time being given for the filing of an answer on the merits of the case, these gentlemen procuring a mere copy of the minutes of the judge's action, and, by a second coincidence, *finding the Chief Justice close by*, had Mr. Brooks secretly *sworn as Governor*. The party proceeded without delay to the executive office, where, as I have, in a public proclamation remarked, the traditions of the American people would have rendered it absurd to place an armed guard or even a vidette, Mr. Brooks, in person, with an armed force of a dozen or twenty, took possession of my room, and I was permitted the alternative of forcible and unseemly ejection, or of such arrest or punishment as he might see fit to inflict. Before I could take measures to reoccupy the State House it was filled with armed desperadoes.

"Traditions of the American people" is an eloquent phrase.

The friend who advised the policy of the first guard on the State House to protect Baxter from wanton interference in the performance of his duty to the people, begged him never to disband it wholly, as long as there were revolutionary menaces against his authority and the safe keeping of the public archives.

But the Governor felt safe in the hands of the eminent counsel in whose hands he had placed his case, in the guarantees of his enemies and the protection of the courts. His attorneys testified before the Congressional Committee in explanation of the taking of the "snap-judgment," as follows:

E. H. English, sworn and examined by Mr. Howard:

Q. Were you one of the attorneys of Governor Baxter in the case in the Pulaski Circuit Court of Brooks against Baxter? A. Yes: Mr. Compton and myself were the attorneys in that case and no one else.

Q. Were you present in the Circuit Court, Judge Whytock's court on the morning of the day when the U. S. Circuit Court was to meet in Little Rock? A. No, sir; I did not have any knowledge that Judge Whytock's court was to meet.

Q. Were you present at any time when Judge Whytock made a statement in reference to the session of his court during the session of the U. S. Circuit Court? A. Yes: on the Saturday before the meeting of the U. S. Circuit Court, I was present when Judge Whytock made his statement from the bench. He said that cases in which counsel were concerned who had business in the U. S. Court

would be passed over for the week and would not be called,—that was the substance of his statement,—and that any members of the bar who had business in the U. S. Court were at liberty to go there and he would not call their cases during their absence.

Q. Was that statement confined to jury cases? A. I have no recollection of any qualification of the general remark.

Q. And that was on the Saturday prior to the week in which the decision was given by Judge Whytock in the Brooks-Baxter case? A. Yes, sir.

Q. Did you have any notice prior to the rendition of that judgment that that case would be taken up for determination? A. No, sir; none whatever. I had no knowledge that the case had been taken up until judgment had been rendered. Mr. Green came into the United States Court and informed me that judgment had been rendered, and that Brooks was in possession of the State House. That was the first knowledge that I had that the case was to be taken up or had been taken up.

By Mr. Rice.

Q. Was not that case submitted on demurrer while you were present? A. I understood it was submitted on Monday.

Q. Was not that published in both the papers of the city? A. I never saw it. I have understood since then that there was a notice of it in the *Republican*, but I did not see the *Republican*. There was no one in court authorized to submit it; for Mr. Compton and myself were the only attorneys of record in the case. There had been other counsel in the United States Court, but we were specially retained in that case, with the understanding that no one else was to be counsel in the case.

Q. You were not only the only attorneys of record, but were the only attorneys who took

any action in the case? A. It was the distinct understanding that we were the only counsel in that case in the Supreme Court and in the Circuit Court. Mr. Compton and myself had an understanding with Gov. Baxter that we were the only counsel, and that we were to get whatever fees were paid.

Q. What position do you hold? A. Temporarily, a position as Chief Justice of the Supreme Court, commissioned by Gov. Baxter. [Commissioned after these events.]

F. W. Compton, sworn and examined by Mr. Howard:

Q. Were you counsel in the case of Brooks against Baxter, in the Pulaski Circuit Court? A. I was.

Q. Did you ever submit or consent to the submission of the demurrer in that case? A. I never did.

Q. When did you first know of the decision? A. A short time after Gov. Baxter was ejected from the executive office. I knew nothing of the rendition of the judgment up to that time.

Q. Or of the pretended submission of the case? A. I saw it in one of the papers, the *Republican*, I think. I had been at Camden very sick. After my return home I went to none of the courts. I was not able to do so. I saw, however, a few days prior to the decision, an announcement in the *Republican* that the demurrer had been submitted. I thought perhaps Judge English had been there. I paid no attention to it, and did not go into court at all, and knew nothing of the judgment until after it was rendered. Before I went to Camden I had a conversation with Mr. Whipple. I was anxious that there might be some disposition of the case, and Mr. Whipple promised me that he would have it dismissed. On my return from Camden I ascertained that it had not been dismissed. I

saw Mr. Whipple again, and asked him why it had not been dismissed. He said he did not like to take the responsibility; but that some time or other it would be taken up and dismissed on demurrer, and he would let it go off that way.

He tells of other suits of a similar nature that had been dismissed.

Examined by Mr. Rice:

Q. A case can be submitted on demurrer without consent, can it not? A. It is usual in the practice, so far as I know anything about it, where a demurrer is filed, the other side has notice. At least it is a rule among the lawyers. They do not take up a demurrer and submit it when the counsel on the other side is absent. I know of no such practice.

Q. Did counsel not bring it up once in court? A. Not so far as I know.

Q. You do not know the fact that it stood upon call for submission? A. I do not. I had not been attending court.

Q. What position do you hold now? A. I am one of the Justices of the Supreme Court of the State, appointed and commissioned by Gov. Baxter.

Gov. Baxter, in his testimony in regard to that case, when questioned by Mr. McClure, said:

Q. Why did not your counsel answer after the demurrer was overruled? A. My deliberate opinion is, that it was because there was a clandestine agreement between yourself, Judge Whytock and others to prevent me from having an opportunity to do so.

Q. Upon what facts do you make that statement? A. I make it generally from the characters of the men and the instances which occurred.

Q. State the character of the men on which you formed your deliberate opinion?  
A. I do not care to do that. I do not want to be personal.

Q. You made no attempt to appeal? A. I made an attempt, by prohibition, to have the decision opened up. Failing in that the town *became a military camp*, and I determined to fight it out on that line. I think I would have appealed, but for the interference of the military.

Gov. Baxter, in his testimony, also stated in regard to counsel employed in his case:

Mr. Whytock refers to Mr. Williams (Sam. W.) as having been present in the Court at the time the demurrer was submitted, and says he was generally informed that Mr. Williams was employed by me in that case. I desire to say that I never employed Mr. Williams in my life to do anything. Mr. Williams and I have been always friends and acquaintances for twenty years, but I never employed him, and he had no authority whatever to speak for me in that case.

It is too much the case in Arkansas, of late years, that men decide cases on reports and rumors and hearsays, and frequently decide them without going into the court house; as I verily believe this case was decided. But, so far from not intending to answer the case on its merits, I have always intended and so instructed my attorneys, to answer on the merits of the case, and to have an answer prepared denying the allegations of the complaint. I did not intend to give them the opportunity of saying that I was unwilling to answer on the merits. I say now, generally, on this subject, that it has been my understanding that the only tribunal on earth which has a right to decide between Brooks and myself is the Legislature of Arkansas. I have given him two opportunities to decide the question before

the Legislature, but I was not willing that partisan courts should interfere and decide, and I do not intend that they shall do so.

But, as witnesses in their testimony allude to the case in the Pulaski Circuit Court, upon which the Supreme Court decision was thought to have an important bearing, it will be rendered more intelligible to give first a summary of the proceedings in the Pulaski Circuit Court. It was upon the disposition of that case that the Reformers and their new allies claimed the authority to eject Baxter and take forcible possession of the State House. The following is a rescript of the principal steps taken in the Pulaski Circuit Court, at Little Rock. The suit had been instituted immediately after the failure of the *quo warranto* proceedings.

MONDAY, June 16, 1873.

Court met pursuant to adjournment, Honorable John Whytock, Judge, presiding.

JOSEPH BROOKS, Plaintiff,	} Complaint at
vs.	
ELISHA BAXTER, Defendant.	Law.

Comes the complainant by Messrs. Whipple, Benjamin and Burton, and by leave of the Court files his complaint herein, which said complaint is in words and figures as follows, to wit:

JOSEPH BROOKS, Plaintiff,	} Complaint at
vs.	
ELISHA BAXTER, Defendant.	Law.

Joseph Brooks brings this his complaint against Elisha Baxter, and thereupon respectfully shows this Court:

1. That on the fifth day of November, 1872, at a general election duly held on that day in

the State of Arkansas, pursuant to the Constitution and laws of said State for the election, among other officers that of the Governor of said State, for the term of four years from the first day of January, 1873, the said plaintiff received the highest number of legal votes cast at said election for the office of Governor as aforesaid; the said plaintiff, then and there, received for said office a large number of legal votes, duly and regularly cast, to-wit: more than forty-five thousand legal votes so cast as aforesaid; and the said defendant, then and there, receiving a smaller number of votes, to-wit: less than thirty thousand votes for said office; and at which said election no other candidates for said office of Governor, as aforesaid, received more than twenty-five votes.

2. That at the time of said election, said plaintiff had attained the age of twenty one years, etc. (stating his legal qualifications).

3. That, the plaintiff is entitled to exercise said office and to be installed therein, and placed in possession thereof.

4. That, on the seventh day of January, 1873, the said defendant usurped the said office of Governor, and has ever since unlawfully exercised the same, and withheld the same from the said plaintiff.

5. That, since the said usurpation, the said defendant has received a salary, fees, and emoluments pertaining to said office amounting to a large sum of money, to wit, to the sum of three thousand dollars.

6. Wherefore the plaintiff demands judgment with costs:

(1). That the said defendant is not entitled to said office, and that he be ousted therefrom:

(2). That said plaintiff is entitled to the said office and to assume the duties of the same, and to be installed therein, and placed in possession thereof on taking the oath prescribed by law.

(3). That he may have judgment for the salary, fees and emoluments aforesaid.

(4). And for all their proper relief.

M. W. BENJAMIN,

R. A. BURTON,

WM. G. WHIPPLE,

*Attorneys for Plaintiff.*

STATE OF ARKANSAS, }  
COUNTY OF PULASKI. } ss.

I, Joseph Brooks, say that I believe the facts and matter stated in the foregoing complaint to be true. (Signed) JOSEPH BROOKS.

Subscribed and sworn to before me this 16th June, 1873.

W. F. BLACKWOOD,

Clerk Circuit Court.

The filing was indorsed "Filed in open Court June 16th, 1873," and summons issued this 17th June, 1873, and returned served on defendant by W. S. Oliver, Sheriff, the same day.

There were no further proceedings, in this case, at that term of the Pulaski Circuit Court, in view of this action of the Supreme Court in the *quo warranto* case. The Supreme Court decision, it was inferred, would be filed and would control the Circuit Court in the determination of the usurpation suit, in that subordinate tribunal. But, at the October term, upon the arrangement entered into by Clayton that the Supreme Judges would file their decision, Baxter having disbanded his militia in pursuance of that arrangement, there was yet *no decision* of the Supreme Court made of record. Baxter's attorneys saw proper to enter a demurrer in the case in the Pulaski Circuit Court. So

at the October term, 1873, of the Circuit Court they filed the following demurrer to the plaintiff's (Brooks') complaint on the 8th October.

The defendant demurs to the complaint herein, because it appears upon the face of the complaint, that the Court has no jurisdiction of the subject of this action.

Wherefore the defendant prays judgment that the plaintiff be debarred from maintaining said action.

At a subsequent day of the term, the cause was continued on motion of the plaintiff, Brooks. The case now stood upon demurrer, which is held to confess the truth of the allegations of the complaint, but if overruled, the defendant may then answer and deny the truth of the matter alleged—a perilous attitude, until the answer is filed.

The statute under which the attorneys of Brooks brought this action, in the Circuit Court (it being remembered that Whipple was the partner of Yonley, the Attorney General, who instituted the *quo warranto* proceedings), was contained in Gantt's Digest of the Statutes of Arkansas, in force at the time, and is still the law.

Section 5745. In lieu of the writs of *scire facias* and *quo warranto*, or of an information in the nature of a *quo warranto*, actions by proceedings *at law* may be brought to vacate or repeal charters, and prevent the *usurpation of an office*, or franchise.

Section 5748. Whenever a person usurps

an office or franchise, to which he is not entitled by law, an action, by proceedings at law, may be instituted against him, either by the State, or the party entitled to the office or franchise, to prevent the usurper from exercising the office or franchise.

Section 5752. Where a person is adjudged to have usurped an office or franchise, he should be deprived thereof by the judgment of the Court, and the person adjudged entitled thereto reinstated therein, but *no one* shall be adjudged entitled thereto unless the action is instituted by *him*. And this court shall have power to enforce its judgment by causing the books and papers and all other things pertaining to the office or franchise, to be surrendered by the usurper, and by preventing him from further exercising or using the same, and may enforce its orders by fine and *imprisonment* until obeyed.

Section 5753. Declares the usurper liable for fees and emoluments to the person entitled to the office or franchise.

The Brooks lawyers contended that denial of jurisdiction by the Supreme Court in the *quo warranto* proceedings would *not* apply to a case brought in an inferior court under this statute *against a usurper*, even if the decision of the Supreme Judges had been properly signed and entered of record; that the case in the Circuit Court could not be disposed of on demurrer, since the fact of a previous contest decided between the parties must be made to appear in the *pleading* as a *bar* by way of answer.

The Baxter lawyers took the ground that the statute was operative in the cases of *other offices* than that of Governor of the State,

but not operative in a contest for the office of Governor. The *complaint* showed a gubernatorial contest; the Constitution, which was higher than the statute, gave *exclusive* jurisdiction of such a contest to the General Assembly. The decision of the Supreme Court, if properly entered, would declare that neither that "*nor any Court in the State*" had jurisdiction to determine a contest for the office of *Governor*, and would be binding on all the courts of the State. Judge Gregg's opinion did not go to the extent of saying that "no other court could exercise jurisdiction."

Governor Baxter was examined by Senator Clayton afterwards, before the Congressional Committee. He testified as follows, p. 424:

Q. In your letter to the *New York Herald*, I see that you speak of a person who assumed, as you say, to be an agent of mine. I infer that he must have been at Little Rock about the time I was here? A. No, previously.

Q. Do you intend to convey the idea that this person visited you previously to my arrival in Little Rock? A. Yes.

Q. Did that person show you any authority from me? A. No, sir.

Q. Did you consider that he really had any authority to speak for me? A. He spoke as if he was speaking for you and Senator Dorsey, and I understood him to include other prominent men in Little Rock and Washington City.

Q. Had you any reason from my past intercourse with you to judge that that person

spoke by authority from me? A. Only this: that the crisis, as between you and myself and other politicians was approaching a point where I suppose you did not feel at liberty to speak to me on a matter of that sort as you had done.

\* \* \* \* \*

Q. Give me the name of that person who assumed to be my agent? A. Asa Hodges.

Q. And the time? A. I do not recollect the time, but it was during his visit to Little Rock, some time preceding your visit in company with Senator Dorsey.

Q. I have also seen it stated in some papers that another reason for the rupture between yourself and me was because you declined to issue bonds to me? A. I never considered that as a reason for our unfriendly relations.

Q. Did you ever decline to issue bonds to me? A. Never to you.

Q. Did I ever make application for bonds to you? A. No, sir.

\* \* \* \* \*

Elisha Baxter recalled. Examined by Mr. Wilshire:

Q. State what it was that produced the feeling of disrespect which you entertained toward the Legislature? A. It was their general bad conduct.

Q. Was there any combination formed by a portion of the Republican members which you regarded as dishonorable? A. Yes, two of the members of the House told me that eleven of them had combined with the view of preventing the passage of any bill unless they pleased to allow it to go through. That was one instance. I understood them to mean, though they did not say it in so many words, that they had combined to let nothing go through unless they were paid for it.

Q. Do you know that there was an effort made to pass a bill for the purpose of paying

claimants for militia services in the militia operations of 1868? A. I do not know that it was ever introduced. I know that it was talked of a good deal by members. They seemed to be willing to act in a manner which I thought most disreputable and dishonorable. Governor Hadley once told me in a conversation complaining of my course, and which I attempted to explain to him, that "he did not object to my politics, but I should let the boys make some money." Judge McClure, on one occasion, speaking of what is here termed the "railroad steal bill," said that "they" (he did not say who) after some reflection and conversing, "had a pool of \$1,300,000 in bonds made up for the purpose of carrying that measure, and that they intended to carry it." Mr. Asa Hodges once proposed to me that he would blackmail Senator Dorsey \$10,000 in my favor for my support of him for Senator.

Mr. Asa Hodges, interrupting: "That is a lie!"

Mr. Baxter: "You are another liar, sir!"

Mr. Ward, chairman, called both gentlemen to order.

Mr. Baxter: Mr. Hodges has sworn falsely against me to-day, and I claim the right to say so. Mr. Asa Hodges, on another occasion, when I was speaking of the inconvenience of bringing my family to town and suggesting a State executive mansion, proposed to me that he had a fine house which would answer, and which he would sell for \$20,000. That he would get through an appropriation for \$30,000 or \$50,000, and I should have the balance. Mr. Hodges was a member of the State Senate. I could tell a great many instances of the kind, but these are the prominent ones.

#### By ex-Chief Justice McClure:

Q. I would like you to state the names of the two members of the Legislature who repre-

sented that there were eleven of them in combination? A. One of them was Mr. Jocelyn, a representative from Chicot, I believe. The other was Jacob Chapline.

Q. Did they state the names of the other nine members? A. They did not.

Q. When was this? A. It was during the Legislature of '73.

McClure had never ceased to ridicule Baxter's assertion that he would be the Governor of the State, not of a party, as hypocritical and quixotic.

The testimony which Asa Hodges offered to the Congressional Committee, and which Baxter denounced as false, was as follows:

I wish to state that if Gov. Baxter understood me as representing myself as the agent of Senators Dorsey and Clayton for the purpose of interviewing him on any subject, he was mistaken. I made no such representation and did not intend to convey any such idea to him. A good deal transpired between Gov. Baxter and myself on that occasion. I stated to Gov. Baxter that at the request of Senators Clayton and Dorsey I had called to see him for the purpose of inquiring whether or not he desired that they should secure an appointment for Mr. Brooks, in order to get him out of the way in the contest. He said that he had desired that Mr. Brooks should have an appointment of some kind or another, but had become indifferent about it. He had thought at one time, he said, of going to Washington to assist in procuring such an appointment, but he had concluded to have nothing more to do with it. A good deal took place between us which it is not necessary to now detail. During the conversation, however, he said he had grown sick and tired of



being Governor of the State, and that a proposition had been made to him to take a Federal judgeship and a competency and resign; that he had thought of doing it, but that it had become necessary, in order to vindicate himself, to decline the proposition, and to serve out his time as Governor.

I said to him that I had no doubt that if he desired he could still get that judgeship, provided there was a vacancy. As to making him a proposition to give him a judgeship and a competency, it never entered into my head. I had only one idea in going to see him, and that was for the purpose of getting his assistance in procuring an appointment for Mr. Brooks, so that we might get Brooks out of the State, and prevent any future trouble in a contest and in the suit then pending in court. I had no idea of making any proposition to him, and did not intend to be so understood. He said to me: "You know, Hodges, I have said to you on one or two occasions, that I have no objection to making money, if I can make it in such a way as I will not be caught at it," or "will not criminate myself," or something to that effect.

Mr. Baxter, interrupting: That is false. I never said any such thing.

Mr. Hodges: On one or two occasions you have made statements of that kind to me. We continued our general conversation and I bade him good morning and left him.

Mr. Baxter (to the Committee): My conversation with Mr. Hodges about the money matter was this: I said that I was as anxious to make money as any man, and that I needed it, but that I would not consent to make it unless I could do it honorably. In regard to the matter touching Mr. Brooks, I have been frequently asked if I did not wish Mr. Brooks to get a Federal appointment, and I believe Mr. Dorsey will do me the justice to say that I wrote a letter to him on the subject, saying that while I was willing that Mr. Brooks

should have an appointment, I did not choose to take any part in it myself. I ask Mr. Dorsey whether I did not write to him to that effect?

Mr. Dorsey: Yes, sir.

The position of Governor Baxter, at this juncture, would have discouraged many men. Those who had placed him in power had fallen away from him like leaves in autumn. Their methods of securing his election had necessarily reflected upon and made him an object of suspicion to a large body of the people, who had been bred to expect fairness in popular elections. The leaders and partisans of Mr. Brooks publicly pronounced him to be as unscrupulous as his associates, and a willing recipient of their corrupt practices. As a Republican, Democrats mistrusted him, or prudence dictated they should hold themselves aloof. Mr. Sayler, one of the Congressional Committee, said, when Baxter was testifying before them:

Q. The thing that puzzles me about the whole affair is that there seems to have been in some way an almost entire overturn. They very men who elected Baxter, or who counted him in, seem to be now the men who are opposed to him, or to whom he is opposed; while the men who opposed Brooks, seem now to be in Brooks' favor. How is this to be explained? What is the secret of this thing?

If Mr. Sayler had read Governor Baxter's letter in the *New York Herald*, and dispatches sent that paper prior to the publica-

tion of that letter, supported as they were by the testimony which was daily offered to the Committee, he was certainly wanting in penetration and understanding.

McClure, Liberty Bartlett, Cooper, Stephenson and John M. Clayton testified, that they disowned him *now*, and "ceased to regard him as a good Republican, when he began to appoint Democrats to office." When Cooper was asked to state whether Democrats of the House, of which he was clerk, were appointed to office by Governor Baxter he answered:

I made a list of them, which I now have here. McVeigh was appointed Prosecuting Attorney for the Mississippi Circuit; Robertson was appointed County Superintendent of Public Instruction for Calhoun County; Lynn was appointed Assessor for Jackson County; Latta was appointed Prosecuting Attorney for the Fifteenth District. I think Harley was appointed Superintendent of Public Instruction for Dallas County.

By Mr. Ward.

Q. Those appointments were made by Baxter, after he became Governor? A. Yes, sir.

By Mr. Rice.

Q. Can you tell what Republican members of the Legislature were appointed by him?

A. Yes, sir, I have got a list of them: Chas. F. Brown was appointed Treasurer of St. Francis County; Corbell was appointed Sheriff of Howard County; Coit was appointed Circuit Clerk of Ouachita County; Copeland (colored) was appointed Sheriff of Crittenden

County; Davis was appointed Assessor of Sebastian County; Fox was appointed Circuit Judge; Grissom was appointed Assessor of Phillips County; O. S. Hawkins was appointed Clerk of Howard County; Havis was appointed Assessor of Jefferson County; J. H. Johnson was appointed Assessor of Woodruff County; McGehee was appointed Prosecuting Attorney of the Tenth District, I think; Merritt was appointed Assessor of Bradley County; Millen was appointed Supervisor of Ouachita County; Nunn was appointed Assessor of Van Buren County; Page was appointed Circuit Clerk of Hempstead County; Robinson was appointed Assessor of Monroe County; Sheppard was appointed Prosecuting Attorney of the Pope Circuit; Shepherdson was appointed Assessor of Hempstead County; Kent was appointed Circuit Judge; J. M. Murphy, Supervisor of Pulaski County; McLeod, Sheriff of Dorsey County; Marshall, Supervisor of Howard County; Stewart, Assessor of Lee County; Turner, Sheriff of Faulkner County; Warwick, Chancellor of Pulaski County; A. M. Hawkins, Supervisor of Little River County; Furbush (colored), Sheriff of Lee County; Kingston was appointed Circuit Judge. I think there were 28 Republicans and 5 Democrats appointed to office, by Baxter, out of the Legislature.

Governor Baxter, in answer to the question asked by Mr. Saylor of the Congressional Committee, said:

Judge McClure says, speaking of me, "He commenced the appointment of Democrats to office." In regard to that I desire to say this: A good portion of the time that we were canvassing, Senator Clayton was with me. In the northwest, I came across a young man who was partly raised in my own county, a promising young lawyer, up there. I suggested to Senator Clayton that if he thought it would

not work injury to the cause, I would like to appoint that young man, Mr. Peay, Prosecuting Attorney, and he consented to it. Of course I was not compelled to ask his consent, but I did ask it. I also told him that as my own successor as Judge, if I were elected Governor, I would appoint Mr. Butler, to which he consented. I also told him I would appoint Mr. Harrell, Prosecuting Attorney of this circuit, a pleasant affable gentleman, although a Democrat, and to that Senator Clayton also consented. With these exceptions, I do not know that I had appointed other Democrats to office, at least until the breach had become widened between us. These were consented to by Senator Clayton, who was the representative man of the Republican party here. I will say further that before finally making these appointments, I called the Republican Senators together and suggested to them that I intended to appoint these men. As I now remember, every Republican Senator was present except Mr. Duke, and he was absent from town. I did not name them all. There was no dissent at all expressed. Thereupon I sent in the name of Mr. Butler for Judge of the Circuit Court, and so far as I know he was unanimously confirmed by the Senate. Judge McClure says that "he opened upon me in his paper." So far as I know, when Judge McClure did open upon me in his paper, I *had not made a Democratic appointment.*

The war on Gov. Baxter was waged because he did not act upon ex-Gov. Hadley's hint, when the latter said: "Baxter, I have no objection to your politics, but you should let the boys make some money." What money? The money that was to be wrung from the hard hands of an impoverished people, by such measures

as the railroad steal bill? The farmers of Arkansas, white and black, women and children, were working barefooted, living upon insufficient diet, already plundered to destitution. Yet their scanty stock and stores were to be further taxed to release great corporations from indebtedness, and interest thereon at eight per cent, of millions, and to pay interest on bonds sold by such promoters as Josiah Caldwell, in New York and London, for fifty or sixty per cent of their face value, in order that a horde of idle strangers, without right, or merit, should live in vicious indulgence.

Baxter stood alone, exposed to the temptations of Dorsey, the deluding suggestions of Asa Hodges, the object of the contemptuous vituperation and menaces of the *Republican*, and supercilious criticism of the *Gazette*.

The people were slowly realizing Baxter's attitude. They were asking: Where now stands the "Reformer" Brooks, our

"Boanerges with his threats of doom, and loud-lunged anti-Babylonianism?"

Cheek by jowl with "*the thieves*" with whom he threatened to fill the jails and penitentiaries "until their legs and arms should stick out of the windows." The first plan of this strange coalition of Brooks and McClure was the legitimate and apparently feasible one of reopening the contest of

Brooks before the General Assembly. This movement was inaugurated, accordingly, on the 19th of April, when Representative Thrower, Democrat, of Ouachita County, presented to the House the petition of Joseph Brooks, asking the right to contest the seat of Elisha Baxter as Governor of the State. This step gave a serious aspect to the state of affairs, and set people to thinking. The public conclusion in regard to it was expressed in the *Gazette's* article of the 22d of April, entitled "Governor Baxter's fight with the Ring." The article read as follows:

People living outside of the Capital and not acquainted with the inside workings of the ring politicians of this city, can hardly form a conception of the nature of the fight which Gov. Baxter is making against the ring of desperate political plunderers who have controlled this State in the name of Republicanism for the last five years. The announcement that he would be impeached if he should veto the railroad bond release bill, and other kindred measures for wrecking the property and crushing the liberty of the people of this State, has developed the secret of the animosity of the most powerful "ring" that ever cursed a State.

The bringing on of the petition of Joseph Brooks, asking to contest the right of Baxter to the executive office is a movement on the part of the very men who put Baxter in that position, and who lately denounced Brooks in the vilest terms.

Representative McVeigh, in opposition to the motion to receive

the petition, made a truly eloquent speech:

At whose wish is this contest now asked to be allowed? Not by the Democrats, all of whom had most strongly urged Mr. Brooks *not* to bring the subject into the House at this late day. No! The patrons of this movement are the very men who, in the late canvass, had exhausted the vocabulary of billingsgate for epithets of abuse and reproach to lavish upon the present petitioner. The men who now favor this measure are those who loudly swore that Baxter was elected by a most decided majority; men who with a kind of imperial authority declared that *no investigation should take place*, but made the claim of the "Old Brindle Bull" a subject of their sneers and witticisms.

Hence we, on this side of the House, are found, almost to a man, opposing the petition as unwise and inopportune. We all know, from the evidence of our senses, that a tremendous pressure has been brought to bear against Governor Baxter, to force him to approve certain measures destructive of the material interests of the people of this State. We have found him firm and immovable, undismayed by threats of impeachment or of being dismissed by this Assembly from office.

Cunningham, of Izard, made an able speech against it.

The request to present the petition was rejected by a vote of 63 to 9—many of the Minstrels, knowing the temper of the House, voted with the Democrats against it upon the call for the ayes and nays.

On the 27th of April, about midnight, as the Legislature was about to dissolve, the Senate passed the Railroad Release

(steal) Bill, in an amended form, leaving off the provision requiring a levy of three mills in currency. It was immediately sent to the House where its authors were confident of its passage. But the House, about half an hour previous to adjournment, took the bill up and *defeated it*. And so this infamous measure was killed.

In his testimony before the Poland Committee, Governor Baxter corrects an amusing misapplication of language used by Brooks, his opponent in the gubernatorial canvass. He said, "Mr. Burton quotes *me* as saying that the penitentiary should be filled so full of McClure, Clayton & Co., that their legs would stick out of the windows. It was Mr. Brooks who made that remark, and repeated it frequently."

Mr. Burton: "That was a typographical mistake in my testimony. I meant Brooks, not Baxter."

Gov. Baxter, in his examination before the Congressional Committee, was asked by Mr. Howard:

Q. Do you know whether at any time during the difficulties instigated by Mr. Brooks and his friends, Mr. Brooks made any statement in regard to what he would do if he succeeded in his attempt to get possession of the government. I call your attention to a public statement made over Mr. Brooks' signature and published in the New York *Herald*? A. I never had any direct communication with Mr. Brooks since November, 1872, either written or verbal.

Gov. Baxter, in his testimony

before the Congressional Committee, alluded to the great embarrassment which omission to file and enter the decision on the *quo warranto* proceedings caused him.

Examined by Senator Clayton.

Q. I wanted you to disband the militia; to muster all out—Democrats and Republicans? A. Yes.

Q. On the ground, first, that the militia was unnecessary; second, that the disbandment of the militia would produce a feeling among Republicans that the militia was not in the hands of men who would persecute them?

A. Yes, you talked a good deal in that way, but you finally *demand*ed it of me.

Q. Demand it in that way: that the thing I proposed to have done could not be done unless that (disbandment) was done?

A. You finally demanded it of me with an oath. You said that it must be done, *or that* I would never have the benefit of the *quo warranto* decision!

Q. How could I say that, when the decision had been rendered? A. It had been rendered, but it had not been *filed*.

Q. Could that have affected the *quo warranto* decision? A. I think that the judges would have refused to file it, and there would have been no evidence of it. I thought it important to have the decision spread upon the record. I say, however, in the main, that you have treated me kindly until this thing commenced. \* \* \* But I will tell you frankly (and I hope you will excuse me, for I am under oath) that I never did think the arrangements (to have decision filed, as the consideration of his disbanding the militia) was sincerely entered into, and I do not think so yet.

There nowhere appears in the

records any testimony of Judge Whytock or Mr. Whipple.

Senator Clayton appeared voluntarily before the Poland Committee of Congress and testified as follows, p. 452:

I desire to say, that I never authorized any person—Mr. Hodges or any one else—to make a proposition of the character alluded to in Governor Baxter's statement as published in the *New York Herald*.

#### Questioned by Mr. Baxter.

Q. Do you know that Mr. Hodges never made such a statement? A. I do not *know* anything about that. He says he did not. I only desire to say, that every proposition of that character by which I was approached looking toward your resigning, or getting out of the office of Governor, I always set aside as a thing not to be thought of at all.

This was all the testimony offered before the Poland Committee by Powell Clayton, p. 211.

John McClure testified, at considerable length before the committee. After testifying that, as Chairman of the Republican State Central Committee, and for the use of the *Little Rock Republican*, he had obtained, at the office of Governor Hadley, from time to time returns of the election of 1872 and on that point only, here omitted, he was asked the following question by Mr. Rice, p. 212:

Q. It was your understanding that there was an effort made on the part of the Brooks men, to get the men who were elected on the same ticket with Brooks, those who were returned and those who were not certified by

Johnson, to make a separate organization?

A. Yes, sir.

Q. Was it the effort of yourself and others who supported Baxter, to prevent that? A. We did not desire anything of the sort.

Q. You very strongly desired that it should not occur? A. Yes.

Q. Do you know any means through which the bottom dropped out of that movement? A. There was a little coquetting on that subject between some Democrats and myself.

Q. That coquetting I want to get at. State all about it? A. I do not know that I can state all about it. I had a good many conversations as to the policy which should prevent the organization of two Legislatures. How it was to be brought about I do not remember exactly, but I recollect Smithee coming to me about it.

Q. Who was he? A. He was connected with the *Gazette*. I believe he is some kind of a State officer now, through appointment of Governor Baxter. The *Gazette* was at the time opposing two legislative organizations. The congressional certificates had not been issued, either to Gunter or Gause (Democrats), or to Wilshire and Hodges (Republicans), by Governor Hadley. Smithee said he wanted Gause and Gunter to have their certificates; said if they could get their certificates, this proposition of making an outside organization of the Legislature by the Brooks men would be defeated. Well, that was something tangible, I asked about how many of the Brooks men he could control. My impression is that he said something between from eighteen to twenty-three.

Q. You mean that eighteen or twenty-three members, who Johnson, the Secretary of State, had put on the roll, could be taken into your organization? A. Yes, Democrats, I call them. Smithee seemed to have some idea in his

head that if I could stave over the issuing of the certificates during Hadley's term, Gause and Gunter would have no difficulty in getting their certificates from Baxter after his inauguration. I said I thought that could be done. A night or two before Hadley's term was to expire, Smithee and Gause came to me in a room in the Metropolitan Hotel, or at all events we three were there together. Mr. Smithee seemed exercised about a conversation he had had with Governor Hadley. He said he was afraid that Hadley was going to issue the certificates for Congress before he went out of office.

Q. To whom was he going to issue them?

A. To Wilshire and Hodges. I told him I did not think there was any danger of that. I said, I will go and see Hadley about it. I have no idea that he is going to do it, but I will go and see him.

Q. Did you succeed in hedging over Hadley's giving the certificates? A. Hadley did not give the certificates.

Q. Did they furnish the eighteen or twenty-three men whom they agreed to have go into your Legislature? A. They all went in.

Q. They took the thing from us (Reformers)? A. They burst the thing up.

Q. And that explains the falling through of the proposition for a separate organization of the Legislature? A. I do not know that that explains it. I am only stating what I do know.

This evidence discloses the vigilant action of the Democrats to secure their rightful representation in the National Legislature. Baxter, however, refused to issue the certificates. Judge McClure continued his testimony as to the returns, on cross-examination by Mr. Wilshire, and on that point

his testimony is omitted here.

The cross-examination was continued:

Q. With reference to the apprehended danger of a separate government being established here by the organization of another Legislature outside the State House or elsewhere, state, if you know, whether Mr. Hadley, the then acting Governor, was not apprehensive of the same danger? A. I think he was.

Q. What do you know about an arrangement to have a regiment of U. S. Soldiers sent here to preserve the peace at the installation of the new government? A. My impression is that some representation was made to the President, that there was likely to be difficulty here.

Q. Who made it,—whether Governor Hadley or some other influences? A. I do not know. I only know that a regiment of U. S. soldiers *came here about that time*. (More questions and answers about the troops).

Q. Were you connected with any newspaper at that time, if so, in what capacity? A. I was president of the Little Rock Printing & Publishing Company, which was publishing the Little Rock daily and weekly *Republican*.

Q. Were you the editor of that paper at that time? A. I do not know that I was really its *editor*, but I wrote a good many articles for it.

Q. Did you not write editorials for that paper, at the time of the organization of the Legislature, and for some time afterwards, stating it as your opinion that Mr. Baxter was elected. A. I am offering a reward for any editorial in which I ever announced the fact that Baxter was elected.

Q. Did not editorials of that character appear in that paper? A. That may have been so, but I had no supervision over the general editorials of the paper. I wrote when I felt

like it. If I did not supply editorials, somebody else did, and I did not see them until I saw them in print.

Q. Did you contribute, or think you contributed toward inducing Mr. Hadley not to issue certificates of election (to Congress) of Asa Hodges and myself? A. I do not know about that.

Q. Did you ever have a conversation with him on the subject? A. I had a conversation with Hadley, in which I stated to him that if these certificates were withheld, Smithee had said he would do what I have already stated.

Q. Do you not think that the non-issuance of those certificates by Mr. Hadley was the result of your information and advice, that you might capture these Democratic members of the Legislature? A. It may have been, or it may not have been.

Q. What do you think about it? A. I would not be surprised if that had something to do with it.

By Mr. Ward (member of the committee):

Q. Did Hadley issue the certificates at all? A. No, sir, not in these two cases.

Witness was then asked about Baxter's appointment of Democrats to office, but named fewer such than had been named already by Mr. Baxter in his testimony. He was re-examined by Mr. Rice as to the military around the State House when Baxter was inaugurated.

Q. Do you mean that you would not disapprove of it now, as a political move? A. It was rumored at that time that Mr. Brooks' friends were likely at any moment to make a raid on the State House, and to take it for the

purpose of organizing the Legislature in the Capitol. In order to prevent a thing of that kind, I thought it a matter of *precaution*. I would, under similar circumstances, again *put a guard over the State House* to hold it.

This, with a few additional answers to Mr. Rice's questions, which, eliciting nothing positive, completed the testimony of Judge McClure before the committee. The ex-chief justice was not examined as to the disposition of the orders of the State Supreme Court in the *quo warranto* case, or as to administering the oath of office to Mr. Brooks.

Soon after the oath of office was administered by McClure to Brooks, upon the snap judgment of Whytock, Brooks, with a body-guard of his immediate friends, entered the executive office, where Gov. Baxter was seated, attended only by his son. Brooks, Catterson, James L. Hodges, Toot Dillon, a son of Mr. Brooks, and Anderson, short-hand reporter, entered together at one door, while a larger party, unseen by Baxter, filled a room that communicated with the Governor's private office. Oliver and Cutter made their way to the empty armory. Mr. Brooks addressed Baxter in a severe tone, informing him that he had qualified as Governor before the Chief Justice, and had come to enter upon the discharge of his duties as Governor. He demanded the books and papers of the office, as a right which he only might exer-



cise, and forbade the removal of anything pertaining to the office. Catterson said that he would be at liberty to leave the office unmolested, unless he offered resistance, in which case force would be used to expel him, or to place him in military custody. The retiring Governor confronted this unexpected intrusion calmly. As he rose from his seat he said that he was alone, he had no means of resistance, and could only protest against this lawless invasion of the office of the State executive. There was nothing left but for him to retire and submit to force and violence, against which he had been guaranteed by repeated assurances of the men who were now putting Mr. Brooks forward, when all lawful means had failed. He submitted to indignity for the present, but to such violent usurpation of his office he would never submit willingly. Accompanied by his son, he passed out of the State-house yard and walked slowly down Markham street to the Anthony House. No one meeting him would have supposed that anything unusual had happened to him.

Before night, as he has testified, "the city was an armed camp." The "Minstrels" and "Brindles" collected all their "forces" in the State House and acted in unison to convert it into a military stronghold, "Gen." Catterson taking military command

under "Gov." Brooks. The militia General Newton, and subordinates, heretofore appointed by Baxter, immediately mustered the regularly organized "forces" in the city, and issued orders to those of adjacent counties to march with least possible delay and place themselves under the Governor's command at the State Capital. The Governor, under escort of the students of St. John's College, a military institute in the city, first took up headquarters at the college, but subsequently returned to the Anthony House, which was in the second block east of the State House.

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EIGHTH PAPER.

"O, you poor cat's-paws of spite,  
Ain't there 'nough things for to fight?  
Ain't there rust, an' tempest, an' blight—  
Ain't there misery sore an' deep?  
Ain't there ignorance an' wrong  
An' what woes to them belong  
But that you must fight each other 'bout  
A brindle calf and sheep?"

—*Will Carleton.*

"A spy—a spy," were the words he heard, and turned quickly to learn whence they emanated. He saw that there were a number of armed cadets in the hall—but all of them wore an expression of lamb-like innocence. He was a "long time citizen"—an old settler, and yet not old in years, and had for a companion a dapper youth who was a stranger. They

had been up to the recitation room of St. John's College to call on Gov. Baxter. As they were about to pass out through the gothic doorway, which was the main entrance to the building, the cadets, standing guard, barred their exit with locked bayonets. It was then that the words were spoken that excited the citizen's attention.

"Wot t' 'ell," asked he of Maj. Peay, who commanded the cadets. "Say, wot's the kids' racket?"

"They have orders not to let you pass," said the officer, firmly but blandly.

"T' 'ell!" exclaimed the citizen with a puzzled look. "I'll see wot ails 'em," and turned back up stairs, leaving the young stranger below.

He saw the Governor still quietly conversing with Gen. Newton, seated on a plain, unpainted "form," or school-bench, too narrow for a seat of a person of the Governor's proportions, and too low to be comfortable. It was the only piece of furniture, except a few others like it, and the Governor and the General were the only persons he then saw in the room: chilly with its bare floor, bare, plaster walls and broken window-panes.

"Governor, they stopped us at the door," said the citizen. "The kids: they said they had orders."

"Go down," interposed Gen.

Newton, seriously, "and tell them to let you out, both of you."

With some question in his mind how this simple message would be received, but without another word, the citizen went down. He repeated the order that had been given him. Without further parley he and his companion were permitted to pass out.

At the foot of the high steps leading from the college entrance, the citizen hesitated, and saying to the young man, "Wait here a minute, I wish to see the mug and ask him what worked the kids," he went back, and seeking the commandant, addressed him:

"Say! give us the tip about the 'spy!'"

"Oh," said the Major. "The word was passed that your friend was a spy from the State-house crowd, and then I got orders not to let him out without an investigation."

"And I am a chump?" asked the citizen, sarcastically.

"No, it seems you are not, as you got out," replied the Major, laughing.

The citizen and his companion passed on across the *campus* to the entrance of the United States Arsenal grounds, in the city suburbs. In the arsenal the State arms were stored—fifteen hundred stands of rifles, perhaps some cannon. It lay some few hundred yards west of the college, was surrounded by spacious grounds,

filled with noble trees, which were putting on Nature's passementerie of opening buds and stamiferous tassels. It was drizzling rain. The visitants chose their way through the grounds for the sake of the protection the trees afforded against the shower. There were a few United States infantrymen lounging about the barracks, and a sentinel at the front gate. A city hack was standing at the gate, and this the two pedestrians were lucky enough to procure to take them back to town.

The youth was the telegraphic reporter of the New York *Herald*. Him the citizen had found and engaged to send his first "special" to the *Herald*, giving an account of Baxter's expulsion from the executive office, as the citizen should frame it. The youth declined, at first, unless the Governor himself should write it. But he compromised on being assured that he should see the Governor, and be requested by him to send it written as the citizen should instruct him. He was fancifully attired, had been seen moving among the Brooks people, perhaps, by some of the college "kids," and was mistrusted by them. Hence the cry he had heard in the college corridor. He did not speak of it.

When the two reached a room where there were writing materials, gas and fire, which the humid day rendered comfortable, they addressed themselves at once to

formulating the dispatch. The citizen wrote and the reporter copied. It was not long until the citizen saw it in the hands of the right man at the office of the telegraph company, which was close at hand.

About dark the citizens were aroused by music and shouting at the Anthony House. It was the return of Gov. Baxter and Gen. Newton to the Anthony House from St. John's College. Files of the cadets marched in front and rear of his carriage. Citizens fell in behind it and formed a rapidly-increasing escort until the procession reached the old hotel. The gathering crowd greeted the Republican official as he alighted with cheers and cries of "Hurrah for Baxter;" "Good-bye, Old Brindle;" "Down with Clayton and Poker Jack;" "Thieves to the rear," and the like. Conservatives, who had been zealous supporters of Brooks, now came up to Baxter, congratulated him on his fidelity to his duty, and pledged him personal and material aid.

They said it had come to a question of enslavement and impoverishment under negro rule, or American citizenship, growth and enterprise. These were to be utterly struck down by a system which proposed riot in oppression, vice and crime.

On the 16th of April, just previous to his moving his quarters

from St. John's College, Gov. Baxter proclaimed the existence of martial law in the County of Pulaski [at the seat of government] through the following proclamation:

WHEREAS, An armed rebellion exists in the County of Pulaski against the State Government, and it becomes necessary to employ all the force at my disposal to suppress it, therefore, by authority vested in me by law, I hereby proclaim the existence of martial law within the said county, and command all persons capable of military duty to assist in the putting down of said rebellion.

During the time that martial law shall thus prevail, every infringement of the rights of peaceable and well-disposed persons will be severely punished, by whomsoever it may be committed. The utmost respect shall be paid by all persons to citizens not in arms, and to their property, and to that of the Federal Government.

In testimony whereof, I, Elisha Baxter, Governor of the State of Arkansas, do hereto set my hand and *private* seal, *the seal of said State* not now being accessible to the Governor of the State.

Done at Little Rock, this 16th day of April, 1874. ELISHA BAXTER,

Governor of Arkansas and Com-in-Chief.

The reporter had copied the telegraphic message to the *Herald* in his own hand from slips rapidly written by the citizen, so that the latter had his own copy. He read it over. He said to himself, "I believe this presents the main points" of the imbroglio. It will reach the President and his cabinet through the *Herald*, to-day.

It will be the first consistent version to reach him, and will cause the *first impression*. Then let them telegraph, petition, send delegates as often as they please. The situation is parallel with the Louisiana experiment. McEnery was dispersed, and Kellogg, the unspeakable, recognized. He represented the party machine."

The following is the dispatch to the New York *Herald*, which that paper contained in its issue of the 15th of April, 1874, and was read in Washington at breakfast the same day. The dispatch had hardly been transmitted when Gov. Baxter took military possession of the telegraph office and placed the management in control of a chief chosen from among the operators. This step followed so soon upon citizen's visit as to seem to have been suggested by it.

LITTLE ROCK, ARK., April 15, 9 P. M.

In the case of Brooks vs. Baxter, in the *nisi prius* court of the Little Rock circuit, brought last summer, stating that Baxter was a usurper, Circuit Judge Whytock, at ten o'clock this morning, overruled the demurrer of plaintiff as to jurisdiction and issued a writ of ouster. This occurred in the absence of Gov. Baxter's counsel. Chief Justice McClure immediately administered the oath of office to Brooks, and soon after Sheriff Oliver served a writ on Gov. Baxter at the executive office. He was accompanied by Brooks and an armed guard. Brooks demanded possession of the office, was refused, and then declared himself in forcible possession. Brooks' friends had possessed themselves of the Capitol, and had broken into the State armory and

seized guns and ordnance. Brooks sent word to say he could not see your correspondent yet. The Capitol halls are filled with excited groups. Gov. Baxter, on leaving the State House, went to the Anthony House and held a consultation with his friends and counsel, then drove to St. John's College, on the outskirts of the city. The Brooks party are jubilant and defiant. It is asserted that the *coup d'etat* was planned by Messrs. Clayton and Dorsey, when here at Easter, after failing to agree with Gov. Baxter regarding the management of the fall elections. Brooks has revoked all Baxter's militia appointments, commissioned R. F. Catterson Adjutant General and Jack Brooker Major General. I went to Baxter's headquarters, in St. John's College, at three o'clock. The entrance was guarded. Baxter said to your correspondent that he would act vigorously; that he had plenty of arms at his disposal at the United States Arsenal. Baxter is organizing the militia. Gen. Robert C. Newton will call out the militia. There will probably be bloodshed if the Government allows them to fight it out. The State House and grounds are well guarded to-night, over 300 Brooks men under arms. There is great excitement here, and the people from the country are arriving in masses.

Joseph Brooks, who claims as the Reform candidate to have been elected Governor in 1872, took the oath of office about eleven o'clock this morning before Chief Justice McClure, and within five minutes from that time seized forcible possession of the Governor's office and ejected the regular Republican official, Elisha Baxter, who by the returns of the election and the General Assembly was declared and installed as Governor January, 1873. About one year ago Brooks commenced suit in the Circuit Court of Pulaski County against Baxter as an usurper of the office of Governor. This was shortly after the Attorney General had commenced suit

against Gov. Baxter by *quo warranto* in the Supreme Court, and after the latter court had rendered a decision that the courts of the State had no power to decide a contested election for the office of Governor. By the State constitution it is provided that the Legislature, in joint session, shall canvass the returns for Governor, and announce the candidate elected, and all contests for Governor shall be decided by that body. The Legislature, in 1873, canvassed the returns and declared that Mr. Baxter was elected. Subsequently that body rejected the petition of Brooks to contest Baxter's election. Nothing more was thought of the matter particularly until a few days ago, when the attorneys of Gov. Baxter desired that the "usurpation" case in the Circuit Court of Brooks vs. Baxter be taken up on demurrer at an early day, with the object of disposing of the same. An understanding was then had that the demurrer should be submitted and argued next week, no day being agreed upon, as the United States Court was in session. On Monday, during the absence of the attorneys of Gov. Baxter, Mr. Whipple, the attorney of Brooks, arose and stated that it had been agreed between himself and the counsel of Gov. Baxter that a demurrer to the jurisdiction of the Circuit Court should be submitted. This, although in the absence of Gov. Baxter's attorneys, was thought nothing of at the time. Yesterday morning, about eleven o'clock, when there were but few in the courtroom and neither of the Governor's counsel present, Circuit Judge Whytock announced his decision, overruling the demurrer. None of Baxter's counsel being present to answer, plead over or move for an appeal, he then rendered final judgment and a writ of ouster was issued out of said inferior court against Baxter, then in charge of the office, in favor of Brooks, claimant. In five minutes from that time an armed mob, headed by Brooks entered the Governor's office demanding pos-

session. The Governor declined to yield, whereupon forcible possession was taken and guards placed at all the entrances to the office. In the meantime, Gen. Catterson, who claimed to act as Brooks' Adjutant General, in the same building took possession of about one hundred stand of arms, Adjutant General Strong, of Gov. Baxter's staff, refusing to give up the keys, although surrounded by armed men. Baxter refused to be ejected except by force, when some of Brooks' men took hold of him and led him out. Since that time Brooks has had possession of the State House. Gov. Baxter has established his headquarters at St. John's College. The greatest excitement prevails throughout the city.

The dispatch was mistaken in saying a writ of ouster had been issued. Gen. Catterson, as Brooks' Adjutant General, took military possession and ejected the occupants of the executive office by armed force without any writ.

The following dispatch was sent by Gov. Baxter to the President:

LITTLE ROCK, ARK., April 15, 1874.  
*To the President of the United States:*

I have been advised by public rumor that in the State Circuit Court for this county, in a long-pending case brought by Joseph Brooks for the office of Governor of this State, a demurrer to the complaint was overruled and an immediate judgment of "ouster" against me given. This was done in the absence of counsel for me and without notice, and immediately thereafter the circuit judge adjourned his court. The claimant has taken possession of the State buildings and ejected me by force. I propose to take measures immediately to resume possession of the State property and to maintain my authority as rightful Governor of the State. Armed men,

acting under this revolutionary movement, are now in charge of the government armory and capitol buildings. I deem it my duty to communicate this state of affairs to the President. I trust the revolutionary acts may be settled without bloodshed, and respectfully ask the support of the general government in my effort to maintain the rightful government of the State of Arkansas, and that the commander of the United States Arsenal at this post be directed to sustain me in that direction. I respectfully request a reply to this communication at an early moment.

ELISHA BAXTER,

Governor of Arkansas.

Gen. Catterson now walked the State House as military commander. Gen. Upham was his Assistant Adjutant General, *par nobile fratrum*. Rev. Mr. Brooks, now Governor and Commander-in-chief, on taking possession April 16th of the office, issued his first proclamation as Governor and Commander-in-chief, which is here reproduced, except the introduction, which goes into the facts of his election, petition of contest, suit and judgment against Baxter for the office, which are now familiar by repeated mention. His second paragraph began:

Being in the office, it is fair that I, to some extent, define my future policy, which adherents of Elisha Baxter will no doubt misrepresent, for the purpose of advancing personal interest and gratifying their ambition.

For my political tenets, I respectfully refer you to the platform of the Reform Party, on which I was a candidate in 1872. From the principles there enunciated I have not departed, and God helping me, I never will! \* \* \*

Efforts no doubt will be made by designing men to convey the impression that it is the duty of the people to rally to the standard of a man who, no doubt, will claim he is Governor of Arkansas, that you all know was not elected, and who has not more right or claim to the office than any one of you have, that was not a candidate, for the purpose of placing that man again in the executive office (*sic*). I say frankly to you that all such attempts will lead to strife and bloodshed, for I shall resist and suppress the action of all mobs that may assemble together under the banner or at the call of Elisha Baxter! No man in the State can more deeply regret strife and bloodshed than myself. But feeling as I do that self-government, rather than self-aggrandizement, is in the issue, I shall employ every means to maintain its supremacy.

Elisha Baxter forced me from the legislature to the courts, and thus far I have patiently borne with the law's delay, at all times feeling that justice would be done me. By the judgment of a court of competent jurisdiction I am in the executive office. When it is adjudicated that I am not there legally, I will bow my head in silence to the decree of the court, be it what it may. The power that Elisha Baxter used to force me into the courts, I will use to make him respect and abide its decrees. To one and all I say, keep quiet and pursue your different vocations; *your services are not needed at the capitol* to preserve either peace or good order. Should the time come when they will be needed you will be notified in due time through proper channels.

JOSEPH BROOKS.

Governor of Arkansas.

Gov. Baxter also issued a proclamation "to the people," from his headquarters at the Anthony

House. The following extracts will show its bearing:

EXECUTIVE OFFICE,  
LITTLE ROCK, April 16, 1874. }

To the People of Arkansas:

\* \* \* \* \*

An insurrection, organized in the interest of certain parties, disappointed in an attempt to secure the influence of the executive for proposed frauds in the approaching election has effected the seizure of the capitol, and now attempts to usurp the functions of government. The momentary success of this insurrection, as far as regards the occupation of the building, has been owing to that security which the political traditions of the American people give to legitimate government in time of peace.

The armed sentries and loaded cannon which, for the moment, support the usurpation within the precincts of the State House had *not been deemed requisite* to the maintenance of a *recognized government*. The occupation of the building, unexpected and forcible, could not at the instant be successfully resisted. Aversion to unnecessary bloodshed has, for a *few hours*, withheld the arm of the State Government from the *immediate vindication* of its rights and dignity.

Forbearance has seemed only to *embolden* the impudence of the *handful* of insurgents. Forbearance therefore is at an end! General Order No. 1, from headquarters of the militia of Arkansas, of date correspondent with that of this proclamation, declares martial law in the County of Pulaski. It is due the people of the State that the circumstances which have rendered necessary this course of action.

[Here Gov. Baxter enters at length in his version of the facts and law attending the efforts and failure of Mr. Brooks to establish his claims, and continues:]

In pursuance of a *plot, already matured, in anticipation of the decision of the Circuit Court*, the conspirators, forgetting in their haste that no *writ of ouster* had been issued, betook themselves to the room where the Chief Justice (the sole dissenter from the decision of the Supreme Court in the matter) awaited them, by appointment, and then, armed with his attestation to Mr. Brooks' oath of office, proceeded forcibly to eject from the State House the chief magistrate of the commonwealth.

An appeal lies of course to the Supreme Court of the State. That court has already, in a case involving the point in issue, determined that the court has *no authority* to decide the validity of election of any executive officer of the State.

It need hardly be remarked that, pending an appeal, the effect of the judgment of the Circuit Court of Pulaski County is suspended, and that the undertaking to sustain the enforcement of that judgment pending the appeal is without color of law or *moral palliation*. The forcible ejection of the chief magistrate from the premises was followed by pre-arranged and prompt summons to armed desperadoes to bar all access to the State House of its legitimate occupants. Mr. Brooks has issued a paper entitled "a proclamation," in which he distinctly announces his *intention of bloodshed*.

The executive of the State has but one obligation to perform—that to which he is bound alike by his duty as a citizen and his official oath. The authority of the law will be immediately and effectively asserted, peaceably if it may be, but asserted in any event. The government purposes to occupy the Capitol. As Governor of Arkansas I appeal to the people of the State to support the government of the State against shameless usurpation. Under the solemn obligations of my oath of office I renew my promise to be true to them.

I ask from them the support which they owe to their chief magistrate.

ELISHA BAXTER,  
Governor of Arkansas.

These pronouncements were, perhaps, proper enough to be published, through a "decent respect for the opinions of mankind;" but either "governor" might have advanced his cause by asking Federal interposition under the Federal constitution and statutes to aid him in resisting "domestic violence," as was soon intimated to them in answer to their informal dispatches, by the Attorney General of the United States.

Article IV. Section 4 of the Constitution declares, "that the United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and, on application of the Legislature, or of *the Executive* (when the Legislature cannot be convened) against *domestic violence*." The statutes prescribe the manner of invoking the assistance.

The Attorney General reminded both of the claimants that their applications were not in form. He then referred them both, flipantly, *to the courts*. He used the word "courts" in its restricted sense. He momentarily forgot that a judicial sentence may be pronounced by other arbiters than courts by authority of the sovereign. The earliest notion was, that a judgment should be pro-



nounced by the king himself upon the facts of each case. It was supposed to be by direct, divine inspiration. Long development of jurisprudence has reversed that conception. It is "not a transient, sudden order from a superior to, or concerning a particular person; but something permanent, uniform, universal," according to England's greatest law-writer.

The Attorney General perfunctorily refers the two "governors" to the decision of the State courts for a settlement of their dispute! It provoked a universal howl of derision, that a complication so serious, which had been wickedly brought on by the paltering, and even the conspiracies, of so-called courts, should be left, by the Attorney General to the solution of "the courts!"

DEPARTMENT OF JUSTICE, }  
WASHINGTON, April 16, 1874. }

*Hon. Elisha Baxter, Little Rock, Ark.:*

I am instructed by the President to say in answer to your dispatch to him of yesterday, asking for the support of the general government to sustain you in your efforts to maintain the rightful government in the State of Arkansas, that in the first place, your call is not in conformity with the constitution and laws of the United States. In the second place, that, as the controversy relates to your right to hold a State office, its adjudication, unless a case is made under the so-called enforcement act, *belongs to the State courts.* (?) If the decision of which you complain is erroneous, there appears to be *no reason why it may not be reviewed* (!) and a correct de-

cision obtained from the Supreme Court of the State.

GEORGE H. WILLIAMS,  
Attorney General.

This same *legal* luminary, the same day, as if writing from his landau, in answer to requests from each of the contending "governors" to the President for leave to withdraw the State arms from the United States Arsenal, in which they had been deposited by the State, telegraphed as follows:

DEPARTMENT OF JUSTICE, }  
WASHINGTON, April 16, 1874. }

*Hon. Joseph Brooks, Little Rock, Ark.:*

I am instructed by the President to say in answer to your dispatch to him of yesterday, asking that the United States commanding officer at the arsenal be instructed to deliver the arms in his custody belonging to the State to you, or hold them subject to your order, that he *declines to comply with your request*, as he is not advised that your right to hold the office of Governor has been fully and finally decided by the courts of Arkansas!

GEORGE H. WILLIAMS,  
Attorney General.

What relief could be expected from the Supreme Court of Arkansas?

Let us turn a moment, while the military preparations of each side are being perfected, to learn the composition of that court and true attitude of its members, as shown by their testimony before the Poland Committee, when they were willing to tell the truth in the hope of preserving the hold of their party upon the power of the State; and which discloses their

true inwardness toward Baxter and his cause when pretending to decide upon it *as judges*. That court was composed of John McClure, Chief Justice, formerly of Ohio, appointed by Gov. Clayton, 1868, term not expired; Lafayette Gregg, old citizen, Arkansas Federal, supposed to be elected 1868, term not expired; John E. Bennett, carpet-bagger, appointed by Gov. Clayton, 1870; M. L. Stephenson, of Illinois, supposed to be elected 1872, on the Baxter ticket; Elhanan J. Searle, of Indiana, supposed to be elected in 1872, on Baxter's ticket.

John McClure, from the beginning, boldly favored the *quo warranto* proceedings, and was for displacing Baxter with the Lieutenant-governor, and finally with Brooks. Lafayette Gregg, in his testimony before the Poland Committee (p. 186), deposed:

By Mr. Rice: Q. Did you concur in the memorandum fly-leaf *amendment* made to your opinion (in the Yonley *quo warranto* case, in the Supreme Court)? A. The objection which I had to adding it was, that it seemed to me to savor more of *dictum* than of legal ruling. On that ground I had some objection to it. I did not think it was announcing any incorrect principles of law, but I thought it was rather *dictum*, as the matter then stood before the court; but as my brother judges (Stephenson and Searle) insisted upon it, and as I had not an opportunity of communicating with them in person (in the vacation, when the memorandum was sent to him), I consented to insert that paragraph.

Q. The question before the court was a

motion for a petition for a *quo warranto*? A. Yes.

Q. And this *dictum*, or whatever it was termed, which was added to this opinion, is a decision that *no court has jurisdiction* of the controversy? A. It is an assertion to that effect. \* \* \*

Q. Do you regard that *now* as law, or as *dictum*? A. I regard it, in the main, as *dictum*. That was my opinion at the time, and *is yet*. I think, however, that the substance of the opinion conveys the same meaning as there is in that paragraph: but I looked on that as *dictum*.

John E. Bennett testified before the committee (p. 256) as follows:

Q. Were you on the bench at the time the petition was filed for *quo warranto* against Elisha Baxter by the Attorney General? A. Yes.

Q. Did you concur in the opinion (denying jurisdiction to issue the writ) rendered thereon, and would you have signed it had it been submitted to you? A. No, sir.

Q. Were you corresponded with in reference to coming here earlier than the meeting of the court, for any purpose? A. No, sir.

Q. Were you not telegraphed to or written to? A. No, sir.

Marshall L. Stephenson testified before the Poland Committee (p. 268) as follows:

Q. Did you consider that you had before you in that case (the Brooks-Baxter *quo warranto* case) any question as to the jurisdiction of the Circuit Court? A. We no doubt at that time intended to confine the decision strictly to the *case before us*.

Q. What made you depart from that intention? A. The reason that actuated me was to preserve the peace and avert any impending danger in the State.

Q. What do you know as to Judge Gregg being actuated by the same feeling? A. I had a letter from Judge Gregg, but I dislike to produce it without first having a conversation with him, as the matter is one of private correspondence between Judge Gregg and myself.

Q. It was on this public subject? A. Yes; I wrote to him and explained the reason why it was desired to have the opinion and the appendix both. Several letters passed between us. Judge Gregg said that while he desired so to restrict himself as *not to strike down any other case* that might be pending, still he agreed with us, that if the *fly-leaf* would bridge over the emergency, he was willing to have it go on file.

Q. Was not the case of Berry against Wheeler (Wheeler was elected on the ticket with Baxter) also pending in Judge Whytock's Court? A. Yes.

Q. Was not Judge Gregg an intimate friend of Berry (who ran for Auditor on the ticket with Brooks)? A. I believe he was.

Q. You were present at the trial of the case of Brooks vs. Whytock, on the *mandamus*? A. Yes (in Brooks' military encampment).

Q. Was that case duly considered? A. It was considered as much as any other case. We had already exhausted the subject of the jurisdiction of the court in the *quo warranto* case, and there was but a single point presented which at all involved the question of jurisdiction. We agreed on that very readily. The case was as well considered as if we had taken a month over it. We already had our minds made up about it.

Q. What point in the *mandamus* case was it which you regarded as not being involved in the *quo warranto* case? A. My views about that were that the two questions were altogether different. There was no conflict

between the *quo warranto* and the *mandamus* cases. No one who has examined the legal points in the two opinions can believe there is any conflict between the two opinions.

Q. The point was, that the kind of case pending in Judge Whytock's Court was not the kind of case that was involved (governed) by the *dicta* in the *quo warranto* case? A. I do not conceive that there was any *dicta* in the *quo warranto* case. It was stated by the Attorney General that the object in the *quo warranto* case was to contest the election as between Brooks and Baxter. In the *mandamus* case, which we considered on the pleadings (in Judge Whytock's Court, exhibited with the petition for *mandamus*) Mr. Baxter confessed himself a usurper! (Technically, he means, unless he answered over, or had an opportunity to answer, and refused.) He had gone into the Circuit Court, and by demurrer acknowledged that he was a usurper. That was the charge (usurpation) made against him by Brooks. (And it was practically made in the *quo warranto* case, as well.) Instead of answering to that, he demurred and confessed himself a usurper. The record came to the Supreme Court in that attitude, and it was not for the Supreme Court to go outside of the papers in the case in order to ascertain the truth or falsity of the statement. He was judged by the record which he presented to the Supreme Court, and, in that regard, there is a great difference between a contest for office and a suit brought against a usurper of an office. They are entirely distinct, and have always been so at common law. There is a distinct and separate remedy for each. The suit was brought against Baxter as a usurper, and he came in and confessed, by his demurrer, that he was a usurper. In that attitude he stood in the Supreme Court at the time the decision was made. The only way that Gov. Baxter could remedy that, at that time, was by revolution.

The mandamus case was another *moot case*, made within the military lines of the State House after Judges Bennett and Searle had taken refuge there, as herein-after narrated, and joined the Chief Justice and Judge Stephenson there. Brooks made a requisition on Wheeler (the Auditor) for money. Wheeler drew an Auditor's warrant for the money on Page, Treasurer, who denied that Brooks was Governor, and refused to pay the warrant. Brooks, as Governor, petitioned for a writ of mandamus to the Treasurer to compel payment. The Supreme Court *granted the writ*, recognizing Brooks' authority, *as Governor*, to have the warrant paid. It so ruled on the ground that the Pulaski Circuit Court had awarded the office to Brooks, in his suit against Baxter for usurpation, although it had previously held that *no court* of the State had jurisdiction to decide the title to the office of Governor. It was a case made in camp. It might be called "martial law"—otherwise camp "*dictum*."

The Chief Justice himself, though dissenting in the *quo warranto* case, immediately afterwards was in favor of prohibiting all proceeding to oust Wheeler, Auditor, and the award of the office to Berry, candidate for Auditor, who was on the ticket with Brooks in the election. He said: "I in-

cline to the opinion that the jurisdiction of the *Legislature*, as to the officers named with the Governor (in the constitution, sec. 19, art. 6, among whom was the Auditor) is *exclusive*, and could not be delegated to or conferred on the Circuit Court, even if the General Assembly had so enacted in express terms." This was the court to which the United States Attorney General remitted the people.

Gen. Newton placed ex-Confederate Generals T. J. Churchill and T. P. Dockery in immediate command of the volunteers, making the last named Military Governor of the city. With such arms as they could procure, and they seemed abundantly supplied, a complete chain of sentinels was established to command all approaches to the State House, also to guard the street crossings for several blocks in its vicinity. At the same time the Brooks men had assembled in the State House in considerable numbers. The upper rooms of the entire building were filled with armed men. In front of the west wing there was a cannon placed—one of the 12-pound pieces of artillery brought out of the State House armory, which Baxter had improvised—and in position in rear of the building was another piece of artillery, each manned by a sufficient force. A force of riflemen manned the walls of the State-house yard. Sentinels, with bay-

onets, stood guard over the Governor's and Secretary of State's offices. It became a belief with many of the colored leaders, from reading Clayton's and Dorsey's indorsements of Brooks that the "old Brindle" was in the lead at last, and would be recognized by Congress. They now eagerly filled the ranks of the State-house party. Both parties applied to the United States officer in charge for delivery to them of the 1,500 stands of arms in the United States Arsenal belonging to the State. That officer referred them to Gen. Emory, his senior officer in command, who was absent in New Orleans, and who had not been heard from. Copies of an "Opinion" of the Attorney General, Yonley, were distributed through the State House, showing Brooks clearly entitled to recognition as *de facto* Governor.

Friday's *Republican* published the following telegrams under the display head "Congratulatory:"

WASHINGTON, April 15, 1874,

To Governor Joseph Brooks:

Accept congratulations upon the final triumph of the popular will. Republican government has vindicated itself in your regard in the overthrow of usurpation.

WM. J. HYNES,  
THOS. M. GUNTER,  
L. C. GAUSE,  
M. L. BELL.

These gentlemen were in Washington as contestants for seats in Congress, to which probably all

were truly elected. The next two dispatches were from citizens who were moved by public spirit alone, and who knew Brooks personally:

HELENA, ARK., April 16, 1874.

Hon. Joseph Brooks, Governor of Arkansas:

We congratulate you on the final triumph of your right to the office of Governor, and perseverance in vindicating the rights of the people.

M. T. SANDERS,  
L. H. MANGUM.

TEXARKANA, April 16, 1874.

Governor Joseph Brooks:

Many citizens in town to-day. They say, "Amen! Brooks is the man we elected."

W. H. CAYCE.

Then in Saturday's *Republican*, the 18th, were published the following dispatches from the two United States Senators:

WASHINGTON, April 16, 1874.

Governor Joseph Brooks:

The President's action is in *full accord* with your views. We rely on your maintaining your *vantage ground*, which you must hold at *any cost*. Our position here is that the *courts* must determine the question, and *no collusion* will be allowed to interfere.

POWELL CLAYTON,  
S. W. DORSEY.

Everything here *perfectly* satisfactory, and the authorities understand the situation. *Maintain your position*, and we will take *care* of affairs here.

S. W. DORSEY.

From Helena there were dispatches same date from M. T. Sanders again, and Austin Barrow, Sheriff of Phillips County: "What action do you wish me to take?"

From Pine Bluff, of same date, the following encouraging congratulatory message, offering assistance:

*Governor Joseph Brooks:*

Dispatches say you are Governor, at last. Stand by your rights—the people will sustain you. Considerable excitement, but abating.

A. A. C. ROGERS,  
W. P. GRACE,  
W. D. JOHNSON.

From Hot Springs came over the wires the salute of a hundred guns to "Old Joe":

HOT SPRINGS, April 17, 1874.

*Gen. R. F. Catterson:*

The people here are much pleased with the change. They fired one hundred guns last night in honor of "Old Joe."

W. P. WALSH.

Those clever politicians, Chas. W. Tankersley and D. C. Casey, sent congratulatory telegrams from Arkadelphia, which pledged "The people to stand by Brooks as the rightful occupant of the executive chair." Dispatches numerously signed from Marianna, assuring Brooks of hosts of friends, and from Furbush (colored), Sheriff, offering one hundred men. From Camden C. Thrower, J. L. Bragg, B. Fulcomb and D. McKavanaugh sent assurances of support. From Hot Springs W. P. Walsh telegraphed, "Waiting your orders."

These continued and additional messages filled a column of the *Republican* from day to day. On the 20th Poindexter Dunn pledged

250 men from St. Francis County. C. W. Tankersley and L. H. Mangum proffered themselves. A mass meeting was held at Fort Smith and adopted resolutions assuring sympathy and support, presented by leading citizens—Judge Thomas Marcum, P. T. Devany, W. W. Griffith, Henry Reutzell, Maj. John T. Humphreys, Col. Hugh L. Rogers, Jos. Eberle and Col. W. M. Fishback. Also a mass meeting at Dardanelle, presided over by T. M. Gibson, of Clayton's militia, sent encouragement.

The columns of the *Gazette* teemed likewise with messages of encouragement to Gov. Baxter:

HELENA, April 16, 1874.

*To J. N. Smithee:*

Almost every one here is for Baxter. The excitement is very high. People are crazy for news. Keep us posted.

EDITORS "INDEPENDENT."

HELENA, April 17, 1874.

*To E. D. Boyd:*

Nearly every man for Baxter.

C. A. OTEY.

PINE BLUFF, April 16, 1874.

*To Gov. Elisha Baxter:*

Old Jefferson all right. We will furnish 1,000 men, if necessary, to reinstate you.

H. KING WHITE,  
FERD. HAVIS,  
A. J. WHEAT,  
D. A. ROBINSON.

AUGUSTA, April 16, 1874.

*Gen. R. C. Newton:*

What is our duty? We are ready to respond.

L. M. RAMSUR,  
A. C. PICKETT,  
J. T. TREZEVANT.

PINE BLUFF, April 17, 1874.

*To Gov. Elisha Baxter :*

We are coming, Father Elisha, with a few hundred more.

IRA McL. BARTON.

HOPE, April 16, 1874.

*To Maj.-Gen. R. C. Newton :*

Will be with you at the earliest possible moment. All for Baxter.

DAN. W. JONES.

The Little Rock Bar, April 16th, except the attorneys representing Brooks, at a meeting of which A. H. Garland was president and J. M. Moore, secretary, numbering thirty citizens, subscribed a resolution declaring "the act of the Circuit Court in rendering a judgment in the case of Brooks vs. Baxter, when the case had not been set for trial, involving jurisdiction which had been twice considered by the Supreme Court and declared to be not within the jurisdiction of the Circuit Court, wholly null and void, not a judicial act, and afforded no color for the revolutionary proceedings based upon it."

And the same day there was issued an address "urging the people to sustain Baxter, and, cost what it may, to rally at the Capital and aid in the maintenance of Baxter in power and authority." The signers were Francis A. Terry, R. C. Newton, John E. Reardon, John Green, Sam W. Williams, W. E. Woodruff, John C. Peay, Chas. A. Carroll, R. H. Rottaken, J. V. Zimmerman, P. Van Patten, Z. P. H. Farr, Thos. W. Newton,

Newman Erb, Thos. H. Walker, Thos. Fletcher, A. H. Rutherford, Geo. L. Basham, Sol. F. Clark, A. D. Jones, U. M. Rose, J. L. Witherspoon, F. W. Compton, Dick Gantt, John M. Moore, E. H. English, A. H. Garland, J. W. Martin, Geo. A. Gallagher, F. M. Parsons, S. C. Faulkner, John Fletcher, T. J. Churchill, James M. Pomeroy, R. H. Johnson, J. W. Reyburn, John D. Adams, W. A. Crawford, T. P. Dockery, J. N. Smithee, Geo. S. Morrison, John Kirkwood, Gordon N. Peay, S. R. Cockrill.

The Baxter pickets were withdrawn from Markham street, beyond Louisiana street, and intercommunication between Markham east of Louisiana street during the following day was obstructed. No one could pass without permission. The State-house party had sentinels all around the State House, and held Markham street west. Companies of United States infantry were placed, one at the corner of Fourth and Main streets (U. S. Court House), another at the corner of Third and Center, with instructions "to interfere with no one, but to prevent conflicts" between opposing citizens. The State-house "garrison" had a large quantity of supplies carried into their lines in the afternoon, and continued actively barricading their ground. The Baxter men had possession of the telegraph office. Maj.-Gen. R. C.

Newton commanded one division, Maj.-Gen. T. J. Churchill another division of the Baxter forces; Col. B. F. Danley was Adjutant General of the latter. The headquarters of the Baxter army was the Anthony House, from the balcony of which the United States army flag floated gracefully. Government bunting floated from all corners of the State House. Maj. Frank Strong, ex-Federal officer, acted as Gov. Baxter's Adjutant General and deputy Secretary of State. There was no truth in a statement that United States soldiers had been ordered into the State House; they had only been extended on State street, nearer to the State House. Baxter men, under orders, took forcible possession of the arms and munitions belonging to dealers in fire-arms. One or two firms had large stores of them within Baxter's lines, and refused to sell upon requisition without the money paid. These men made complaint to Brooks, and thereby lost the full price of their wares ultimately.

Sentinels were regularly posted and walked their rounds all night. All night their challenges might be heard. No shots had yet been exchanged on the 18th, although both sides had been heavily reinforced by volunteers from the country. Telegrams of encouragement poured in to Baxter, but were no longer delivered to Brooks

if received at the telegraph office. Brooks had a wire and instrument of his own. Resolutions of county and city meetings were sent to encourage their several champions.

A special to the St. Louis *Dispatch*, of the 18th, stated that the entire delegation from Arkansas waited on the President and requested him to recognize Brooks. "The decision was emphatic not to interfere in the Arkansas imbroglio. Grant remarked, coldly, *that he should follow the precedent set in Louisiana.*" The *Dispatch* contained the following:

The situation in Arkansas caused much talk here this morning. Groups of Senators and Representatives discuss it in all its bearings. Said Carpenter: "The government should keep its hands off. No more Louisiana, if the Republican party is wise." Said Butler: "It is dog eat dog. Baxter has no backbone, and Brooks no conscience. Neither is true." Morton said: "I see *no cause for this violent action* on the part of Brooks. It bears revolution on its face." [Morton then had more influence with Congress and Grant, than all his Cabinet.] Said Thurman: "What a commentary on reconstruction! Ten years after the war, here is a State in a condition of insurrection, because two bad and mercenary factions are fighting over the property of a helpless people."

The people generally were aroused. The excitement of the situation was intense in localities accessible to the capital and rapidly extended to those more remote. All minds agreed that the immediate destiny of the State depend-



ed upon the result. Each one of the opposing parties was daily increased in numbers by the people who flocked to the capital from all directions. The State House stands upon the elevated south bank of the Arkansas River, which is in the third-class of rivers; here flowing eastward. The front of the building faces Markham Street, which runs parallel with the river, one square south. The Union Depot for the railroads then centering at Little Rock was at the western limit of the town on the same side of the river. Passengers by the Cairo & Fulton, Fort Smith & Little Rock, Memphis & Little Rock Railways got off there; those from the north side, after the trains had crossed the new iron bridge near that depot. The steamboat landing was near the eastern limit of the town, and passengers could enter that part of the town by crossing on the ferry-boat. Passengers by the river were landed there. The old Anthony House was in the second block east of the State House. Recruits for Brooks came up from the south to the Union Depot and those coming from the north and west landed there after crossing the bridge. Many negroes were recruited in the counties south, along the line of the Cairo & Fulton Railroad. Tankersly, from Clark, headed a detachment of negroes. Coblentz and Gill brought down squads of negroes from Lewisburg. Man-

gum and Sanders were accompanied by a few whites from Lee and Philips Counties on the Mississippi River, and crossed the bridge. Baxter's forces were mainly recruited, at first, by small companies of whites, who got off at the ferry, or came round to the east of the town. Brooks had the assistance of State Auditor Wheeler and Treasurer Page, who had gone over to him, and issued certificates of indebtedness for meeting expenditures. By the 19th April, the numbers which had entered the camps of the opposing parties, swelled to the proportions of armies. It was a situation fraught with danger. Reckless men went about the streets with arms, ready for a conflict, which nothing but the presence of the United States forces prevented.

A little after daylight, Saturday morning, the 18th, "Gen." Ira McL. Barton and Col. H. King White came up the river, on the steamboat "Mary Boyd," from Pine Bluff, with three hundred negroes, as reinforcements for Baxter. They were accompanied by Mayor Holcombe of Pine Bluff, Maj. C. G. Newman, of the Pine Bluff Press, and other leading citizens. With brass band and flying colors, they marched from the landing to the headquarters of Gov. Baxter, who greeted them from the balcony of the hotel. Soon after Col. Dan. Jones marched in from the south with

a good following from Howard and Hempstead Counties, and about 10 o'clock A. M. another detachment of citizens of Saline county, under Col. Crawford, arrived to array themselves under the standard of Baxter. These arrivals created the greatest commotion, as they were greeted with shouting, singing and music of brass bands. The Pine Bluff contingent first sung to the giving out of one of their number, five hundred throats joining in the chorus, the following song and chorus:

Do you see that boat come round the bend?

Good-bye, my lover, good-bye;

She's loaded down with Baxter men!

Good-bye, my lover, good-bye.

This was heard by the negroes of the Brooks camp, who broke out with emulating cheers and songs. But the "poetry" and "music" of the Baxter choristers took the day, and, during the "war," the song was sung on every occasion, until unpoetic hearts began to wail:

Oh for the day that soon shall send,

That boat again around the bend!

Good-bye, my lover, good-bye.

But the song and the men were most cheerfully endured by the Baxter camp.

Gen. Newton's staff consisted of Brig.-Gen. J. M. Pomeroy, Chief of Staff; Col. Beall Hempstead, A. A. Gen.; Maj. Albert Belding, Ass't A. A. Gen.; Col. H. H. Rot-taken, Insp. Gen.; Col. A. Syberg,

Chief of Artillery; Lieut.-Col. S. B. Reardon, A. D. C.; Lieut.-Col. W. N. Portis, A. D. C.; Lieut. Col. S. O. Smith, A. D. C.; Col. John Ainslee, Q. M. Gen.; Maj. T. S. Alden, Ass't Q. M. Gen.; Lieut. Col. George A. Davis, A. Com. Gen.; Rosco G. Jennings, Surg. Gen., with rank of Colonel.

Capt. Sam Houston, the same who was in command of the *Hesper* when she was overtaken by the tug *Nettie Jones*, below Memphis, on the Mississippi River, when he was relieved of "those arms," intended for Clayton's militia, had now attached himself to the fortunes of Baxter. He was a passionate, resolute man, who expressed himself in language the most unrestrained. In going near the lines of the Brooks party, some of his former political associates resolved to make him a prisoner. A squad was sent to arrest him. He made violent resistance, and the guard were about to fire on him when Lieut. Fowler came up with reinforcements and took him to the guard-house. Mr. Geo. R. Brown, as reporter for "two papers, both daily," was several times arrested as a probable "spy" in both lines, and made involuntary visits to the guard-houses of both armies.

The arrival of Barton and King White, with their colored battalion, their tumultuous reception and the effect produced on the negroes, created much excite-

ment in the city. That night Col. Rose, commanding the United States regulars, placed guards at the corner of Markham and Main streets, the corner immediately west of the Anthony House, upon complaints of Brooks that citizens were being deprived of their liberty and property. The same evening Mayor Kramer received a dispatch from the Attorney General denying the Mayor's request that United States soldiers be detailed to act in aid of the city police. The Attorney General stated that the President had instructed the officer commanding the United States detachment at Little Rock to prevent bloodshed, as all he could do under the circumstances. Brooks' operators tapped the telegraph wires in front of the State House.

The next morning Gov. Brooks issued another proclamation "To the People of Arkansas," in words and figures following) omitting the customary announcement of his authority):

I desire to avoid bloodshed and a destruction of *private property*, but while this is so, I cannot sit idly by and see the private property of citizens (arms) taken without compensation by an armed mob, and peaceful citizens halted and maltreated within sight of the capitol! In the interest of peace and good order, I request and command all persons who may have been deluded into rallying to the standard of the *pretender* to lay down their arms and return to their homes within twenty-four hours.

If this injunction be disregarded, I shall be

compelled to take such measures as will, in my opinion, result in *suppressing disorder* and in restoring the *peace and quiet* of the State. I do not want to be placed under the necessity of proclaiming martial law, believing as I do that life and property can be better protected under the civil—but if my request is disregarded, those disobeying must not complain of *what is in store for them*, or of the punishment that *may* be meted out.

In testimony whereof, I have hereunto set my hand and *caused the great seal of the State* to be affixed at the City of Little Rock, this 18th day of April, A. D. 1874.

JOSEPH BROOKS,  
Governor of Arkansas.

By the Governor:

EDWARD CURRY,  
Secretary of State, *ad interim*.

The "call upon the militia of the State," supposed to be referred to by Gov. Brooks, was the "Order No. 1," of April 17th, of Gen. T. P. Dockery, as Military Governor of the City, calling on "all male citizens, between the ages of 18 and 45, to report for duty at his headquarters," at southeast corner of Markham and Scott streets (old Ashley mansion). It was by the orders of Gen. Dockery that the gun stores of Linzel and of Wm. Dabbs and J. F. Trumpler were placed under guard and some of their guns taken.

Lieut. Groves, on duty at the State House, ventured down Markham street to this corner, which is east of the Anthony House, and was arrested and taken before Gen. Newton. On proof that he

was in the employ of the United States, he was released. John (known as Jack) Brooker, lately United States Revenue Collector, wandered over the line and was arrested by Dockery's men. He was a daring man, of the ultra Republican school. He pleaded his government employment, and was released. It was afterwards known that he was one of Gov. Brooks' "colonels" among the first appointments, in command of a regiment at the State House. Dan O'Sullivan, City Collector, and Maj. Anderson, stenographer at the State House, were also incarcerated in Dockery's bastille an hour or two, but were released.

On the 19th, the *Hallie*, stern-wheel steamer, Ed. Bowlin, master, was pressed into service on Saturday night and sent to Pine Bluff for "troops." Capt. Sam Houston was detailed to command her. It would have been fortunate for the ill-fated captain if his arrest of the day before had been prolonged until the end of the siege. Dick Brugman ran the Baxter outposts from Fourche dam, east of the city, with a large band of negroes for the State-house camp. At 4:30 P. M. the United States troops were stationed as follows: Company C, corner of Louisiana and Fourth streets; Company I, divided and stationed at United States Court House; corner of Main and Fourth streets, and at the Western Union

Telegraph office, Maj. Rosecranz in command. The United States military guarded the telegraph office, complaints having been made by a young man sent from Washington City to subpoena witnesses in the Storey case, and some "merchants," that their dispatches were *vised* by a Baxter "censor." Postmaster General Cresswell issued the following order to Postmaster Pollock in regard to letters:

WASHINGTON, April 17, 1874.

Letters addressed to Gov. E. Baxter, or Elisha Baxter, Governor, should be delivered to said Baxter. Letters addressed to Gov. Brooks, or Brooks, Governor, should be delivered to Brooks. Letters addressed "Governor of Arkansas," you will hold until further orders.

JOHN A. J. CRESSWELL,  
Postmaster General.

Gov. Baxter, on the 19th inst., telegraphed to the President, complaining of the interference of the United States military. In the dispatch he went over the circumstances of his expulsion from the State House and the attitude of the courts, but concluded thus:

The people are coming to my aid, and are ready to restore me at once. In making this organization I am obstructed by the interference of the United States in displacing my guards from the telegraph office; and now it is apprehended that there will be further interference. Such interference breaks me down, and prevents any effort on my part to restore the State government and to protect the people and their rights. I beg you to modify any order to the extent of such interference, and leave me free to act as the legiti-

mate Governor of the State. In the interest of peace, and these people who are flocking here to my support by the hundreds, I beg of you to remove the United States troops back to the arsenal and permit me to restore the legitimate government, which I will do *promptly, if the United States troops will not interfere.*

I have been thwarted and delayed thus long, and in fact ejected from my office because of the fact that *I had heretofore disbanded the militia of the State.*

On the 20th inst., as a large reinforcement for Baxter of white citizens from Pope, Johnson and adjoining counties, under command of Hale, Russell, Ben Young and Harry Poynter, veterans of the Pope County war, were leaving the train of the Fort Smith & Little Rock Railroad, on the north side of the river, the engine suddenly started and threw Capt. John B. McConnell, Clerk of Johnson County, on the rails, between the car wheels. Two wheels passed over his body lengthwise, killing him instantly. This accident cast a gloom over the city, where he was well known. He was the first Democrat elected Clerk of his county after reconstruction, and was popular with all classes. His remains were taken home for interment.

The same day, about 5 o'clock P. M., the commander of the United States soldiers moved the detachment on post at the *Gazette* office to the foot of Louisiana street, only a block east of the

State House. He ordered also two pieces of artillery from the arsenal and placed them in position at the corner of Louisiana and Second streets. This movement caused considerable excitement, which was increased by a statement that the Brooks forces were preparing to attack the Baxter camp. A company of Baxter men was quickly formed across Markham street east of Main. Col. King White, mounted on his cream-colored horse, moved out his large force of colored men, yelling wildly, to Second street, and formed them on the east side of Main. Gens. Newton, Churchill, Barton, Portis and Ben Danley, also mounted, with their respective staffs, were promptly on the ground excitedly giving orders and placing other companies in position. The scene glittered with bayonets, and was luridly warlike.

Observing this demonstration, which it seemed was unexpected to him, Col. Rose, the Federal commander, ordered six men to get horses at Davis' livery stable, on Scott street, and go to the arsenal for more artillery. As one of the soldiers, William Harrington, was mounting his horse, the animal turned suddenly and threw the man, his foot catching in a tug-chain. In this manner he was dragged by the horse at a rapid gait up Scott to Markham, and down Markham to Rock, where

the man was thrown against a dray and severely injured. He was thought at first to be mortally wounded, but eventually recovered.

Just at this time the steamer *Hallie* arrived at the wharf from Pine Bluff, with 500 more negroes (reported for Baxter), in charge of Ferd. Havis, and a company of white men under John H. Thomas. They marched from the wharf up Markham street with drum and fife, colors flying, yelling like wild cats, eager to join the expected melee. Not a Brooks man was to be seen. The State-house party were ignorant of what was going on, and expected themselves to be attacked, and were all in position behind their breastworks—stood there all night. The same day ex-Auditor W. R. Miller, Judge J. W. Butler, Senator McChesney and Maj. Carroll Woods, with a company of whites, arrived from Batesville. Baxter men along the line of the Cairo & Fulton railroad took forcible possession of the train—thirteen at Hope, twenty-five at Arkadelphia and eight at Malvern—all armed. Superintendent Dudley was aboard, and said to Conductor Brown: "Five men were enough to take a train at Gad's Hill, with felonious purpose. These men, with their ideas of duty, would be irresistible." The men from Malvern had their tickets.

Telegraphic offers of men were

still pouring in to both sides. Poindexter Dunn offered Brooks 500 men from Forrest City; Copeland, from Marion, offered Baxter reinforcements, and Thornburg, from Walnut Ridge, assured him that old Lawrence was for Baxter, and asked him to say how many men he wanted. Gen. Wilshire telegraphed from Washington, the 19th inst., to Baxter: "The lawyers, in and out of Congress, believe you right. Be prompt. Don't fail." And Sol. Meyer telegraphed to King White, from Pine Bluff: "Can you use a company of Yehudians (Jews)?"

Col. Sleeper came down with a reinforcement from Conway County for Baxter. A company of negroes from Campbell Township, under Capt. Sol. Miller, went into Brooks' camp about dark. During the day the Baxter pickets arrested Sheriff E. A. Nickels, of Hot Springs County, and Benton Turner, of Conway County formerly, now Sheriff of Faulkner. All had quieted down by dark, and by midnight war had closed his fiery eyes.

On the 20th inst. the United States House of Representatives reported to have appointed a special committee to visit Arkansas and inquire into affairs there.

Several detachments of citizens arrived on the morning trains as reinforcements for Baxter; a large one from Searcy, White County. At 7 P. M. a truce was agreed upon

by all the parties until 9 A. M. the next day. The Federal commander then withdrew his guard which had been stationed at the intersection of Markham and Louisiana streets, a block east of the State House and nearly opposite the City Hall. The two pieces of artillery were in position at the United States Court Room, then being on the corner of Main and Fourth streets. Another United States company was quartered in the City Hall, where they slept. The Brooks men occupied the State House and Benjamin block, opposite. Baxter occupied room No. 10, in the Anthony House, which was surrounded by a strong guard. Many of his men occupied the Waite block, opposite, and Adams block, east of the Anthony House. Others occupied the Odd Fellows' block, east of the Waite block; some were at the Conway House, on Scott street, and others at the Ditter block and in the Cleburne Engine House—all within a circle of two blocks radius.

It was reported that an additional force of United States regulars was expected on the train from St. Louis, at noon. Nearly all business houses were closed in the district occupied by the "combatants." A military order was issued by Gov. Baxter for the "corps commanders of the Arkansas State Guard" to report their numbers forthwith to Gen. New-

ton, and assigning Col. Ed. W. Thompson to duty as chief of staff. "Gen." Pomeroy was arrested by Oliver, of the Brooks camp, and released during the day. Moses Reed, brother-in-law of Brooks, was arrested by the Baxter men and discharged during the day.

About 5 P. M. Col. King White turned out his brigade of negro braves for a parade. Mounted on his clay-bank horse, and headed by a band of music, he marched them from the Ditter block, corner of Markham and Rock streets, west on Markham to Scott, out south on Scott to Ninth, thence to Rock, and again on Markham to the Anthony House, where he halted, the band and right resting on Main street. Colonel Rose, in command of the Federal troops, appeared mounted on a white horse in the center of Main street. In all the upper stories of the buildings were armed men and citizens of the Baxter side. When halted, fronting the Anthony House, Col. White's "brigade" gave "three cheers for Baxter."

Gov. Baxter came out on the balcony and made them the following address:

SOLDIERS—I am, in point of fact, too unwell to address an audience. My health, for a number of weeks, has been such as to almost disqualify me for business. But there is an emergency—there is an insurrection—the government has been seized—the archives

are in the hands of the insurgents. I have called you here for the purpose of asserting *not the rights of Elisha Baxter*, but the rights of the sovereign citizens of the State of Arkansas. (Great cheering.) The seizure of the archives was effected without my ever having been served with process of court. I am making preparations. I intend to assert my right as far as respects the government functions of the Executive to govern the State of Arkansas (Hurrah for Baxter. Thieves to the rear!).

I have, however, to say, that it is a well-known fact in military service, that officers and commanders cannot give, in advance, to the troops or to the country, a detailed account of their proposed operations. They are necessarily military secrets; there are matters which must necessarily be kept quiet; and you will not expect of me on an occasion as public as this to detail my plans of operations.

Col. White, interrupting at this point, asked: "Just tell us whether you are going to have us take that State House, or not?"

Gov. Baxter replied:

I ask you, gentlemen, to be patient and quiet; conduct yourselves orderly, as good soldiers—such as I know you to be—and in due time proper orders will be given you to assert the rights of the State (immense cheering).

Soldiers! I would fain address you at greater length, but—and I say without any resort to this as a subterfuge, in order to shirk the labor of a speech—I am physically unable to address you longer. Thank you!

The Governor started to go in, when he was requested by a general officer to resume his position for a moment. Then Col. White,

addressing him from the street, said:

GOV. BAXTER—I did not come here, of course, to make a speech. I came here to assist in reinstating what I consider to be the legally constituted authorities of the State of Arkansas. I have brought with me here a number of colored men. It has been said, sir, that these colored men will prove treacherous to you. I now ask these colored men, in your presence, and in the presence of this assemblage, whether *we* shall stand *firm* to Elisha Baxter? (Immense cheering, and cries, "We will; try us!")

I am here, Gov. Baxter, for the purpose, if necessary, of surrendering my life to reinstate the lawful authority of the government of this State. Furnish us simply with the means—give us the authority—pronounce the order—and I will guarantee to you, sir, that in twenty-five minutes from the time the order is written, Joseph Brooks will either be in hell or the archives—[what else he said was completely drowned in the frenzied shouts of the men.] I have a force here of men who will fight, sir; summoned from their fields—taken from their plows, every one of them. They are anxious to go home, but I say to you now, as I have said to you before, let it take us one day or one year, the colored people commanded by myself and Col. Havis, and the other and subordinate officers of this command will stand by you until you are the recognized Governor of the State of Arkansas. (Enthusiastic cheering.)

This is all I have to say, sir. I know that you, in your good judgment, and the officers commanding us, in good and proper time will give us the order. All we ask is that the time and those orders will *soon come*. (Great cheering and shouts "Hurrah for King White.")

Gov. Baxter replied:



COL. WHITE—I wish to say in response to your remarks that for one, I have never for one instant doubted the patriotism and loyalty of these colored men who stand before me (cheers). I well know that attempts have been made to change their sentiments and attitude; but in the midst of it all they stand as firm as the Rock of Gibraltar. (Amen! laughter and cheers.) And allow me to say to you now, that in consequence of the condition of my health, I must be permitted to exhort you, in conclusion—*be patient, conduct yourselves orderly, and have no fears for the consequences.*

The Governor retired from the balcony amidst enthusiastic cheering. If this was a preconcerted *tableau vivant*, or posing for effect, it was about as impressive a one as could have stirred men's blood, and declamation such as men's ears have very seldom listened to. Col. White's men were well fed; they were lodged with comparative comfort, and cared little about returning to those "fields and those plows." If Brooks' followers were endeavoring to induce them to betray their leader and desert Baxter, they undertook an impossibility.

It seems to have completely bewildered Col. Rose, the Federal commander, who had heard and witnessed it all from his position on his white horse in the center of the street, twenty steps from the band. At the conclusion of Gov. Baxter's remarks the band struck up. Col. White rode toward the band, on the right of his line, and gave the order "right

face," intending only to counter-march the command back down Markham street to quarters in the Ditter block, as he afterwards declared. But, as he was about to give the order to march, Col. Rose rode abruptly through the band, as it was playing, his horse striking against some of the musicians. He excitedly asked Col. White if he intended to march his men further up the street (in the direction of the State House), to which question Col. White answered: "I had not so intended, sir; but I wish to warn you, that I'll not permit you to ride over the men of my command, if you are an officer of the United States." Capt. Rose replied, warmly, that his men must keep their place, and he "must keep *his* place." Col. White retorted: "You are an officer of the United States army and ought to be a gentleman. I am a gentleman, and, whether you are or not, I'll not permit you to ride over my men, nor over me, sir!"

On hearing this remark, it is said by witnesses, Col. Rose drew his pistol and made a gesture or feint of striking at Col. White; that White struck the pistol up with his hand, and it was discharged in the air above his head. Col. Rose denies that he had any arms except his saber, and consequently could not have drawn a pistol. Col. White maintains that Rose had a pistol and

drew it; that he (White) struck it up, when it was discharged with a loud report, and that a negro on the sidewalk also fired a pistol at one of the two officers, which he could not say.

These reports of fire-arms (nothing could have so effectually concluded) caused the wildest excitement. An indiscriminate firing began immediately between the Brooks men standing on the opposite corners, and in the windows of the Metropolitan Hotel, and Baxter men on the south side of the street, extending in the direction of the Anthony House. Minnie balls filled the air, and the crack of the rifles was followed by the crashing of glass. About two hundred of White's braves were without arms, and they speedily disappeared, taking shelter in the stores or down the alley west of the Anthony House. Shots from Springfield and Winchester rifles rained upon the west end and front of the Anthony House. The balcony upon which Baxter stood when he addressed the line of soldiers a few minutes earlier was ploughed by bullets from army rifles. Mr. David F. Shall, a wealthy real estate man and old and respected citizen of Little Rock, was sitting in a window of the Anthony House office with his back out of the window, which was near the pavement, conversing with some one in the office. One of the rifle-balls (from

the Metropolitan Hotel, it is supposed, from all indications) struck the back of his head, another his side, and caused his death in less than an hour. The shower of bullets that fell from the same direction was intended doubtless for Baxter.

Mr. Shall was not engaged as a combatant, but was a conservative and sympathizer in the Baxter movement. He left a large estate. A mother and sister survived him to mourn his untimely end.

Col. Wm. A. Crawford received a glancing shot in the head, and Col. Dan Jones was hit and slightly wounded. One of White's colored men received a ball in the foot, and another was hit on the arm. O'Sullivan, an editor and Brooks man, was shot from an alleyway, with a rifle, the ball passing through both legs, breaking them. It was at first thought his legs would have to be amputated, but that was not done fortunately, for he ultimately recovered. A chambermaid at the Anthony House, in the panic caused by the firing, jumped out of a second story window and broke her leg.

At the opening of the fire Col. Rose wheeled his horse and rode to the City Hall, in the direction of the State House. He quickly formed his men in line across Markham street. They took the trucks of the hook and ladder fire company and erected them into a

barricade across the street and placed behind it two pieces of artillery, promptly brought from the corner of Main and Fourth streets (U. S. Court-room). He also placed a piece in position at the corner of Second and Louisiana streets, pointing to Markham street, along which he anticipated the Baxter men would march to the State House, and made ready for action. Gen. Newton rode up and down the Baxter lines, forming his men on different streets and giving them directions. A general engagement of the Baxter men on one side and United States soldiers and Brooks men on the other seemed inevitable. A strong party of resolute Baxter men ("veterans of the Pope County War") rapidly advanced under the river bluff, beyond Main street, in the direction of the State House, intending to enter the building from the rear if the action went on, and only awaited the advance of the main column and sound of firing. After a half hour's suspense, it was evident that there would be no more fighting. Crowds again appeared on the streets (without arms), making inquiries and telling incidents of the skirmish, but there were no more demonstrations of hostilities that day. The United States detachments stood to their arms behind the hook and ladder barricade, and by their field-pieces at the street corners for an hour or more

in grim expectancy. Looking at the ground, the streets, hotels, and calculating the close proximity of the antagonists, one could fancy the slaughter that would have been the consequence of a general engagement there. Besides loss of life, there would have been doubtless a fearful conflagration and great destruction of property. So ended the seventh day. All was quiet at nightfall.

Tom Jones, of Mr. Gibbs' book store, saw the meeting of Colonels White and Rose, and the first shot fired. He thus relates the incident in the *Republican* of the 22d:

Col. Rose rode forward to Mr. (Col.) White, and in doing so ran over one of the colored members of the band. The colored man at the head of the Baxter men then drew up his musket and fired at Col. Rose, but did not hit him. A moment after, a shot was fired at the corner of Scott street, east of the Anthony House, and the firing became general.

Rev. Gillem, a colored divine, while forcing his way through a glass door of Ober & Co., opposite the Anthony House, to clear the way for the combatants during the firing, was badly cut with glass on the face, hands and arms. Mr. Castleberg was cut with glass in the same doorway. A colored man, a stranger in the city and not connected with either side, had an ear taken off by a bullet. James Hill, a colored hack-driver, was shot in the thigh. The United States flag in front of Baxter's headquarters was pierced by sev-

eral bullets. All was quiet at nightfall. Strong guards of Baxter men were placed at the corner of Main and Markham streets, and the pickets along the line strengthened generally. A large part of the force of Col. King White, those who were unarmed, were sent down the river to their homes.

H. King White was the most conspicuous figure, next to Brooks and Baxter, who took part in the Brooks and Baxter War. He has been criticised in consequence, but seemed careless of what others thought of his actions in matters of either public or private interest in which he became enlisted. He was about twenty-eight years of age in 1874, tall, raw-boned, red-haired and freckled. He was a Kentuckian by birth, and had early training in war under Gen. John Morgan, the famous Confederate cavalry leader. He married in Pine Bluff soon after the surrender, a granddaughter of ex-Gov. Roane, was a nephew of Rev. T. C. Trimble, Episcopal clergyman of that place, who had served as a chaplain in the Confederate army. He allied himself with Powell Clayton in the early days of reconstruction, and was made prosecuting attorney of his district by Clayton, entering with apparent zest into the organization of the Republican party in his county, the large majority of whom were negroes. He acquired an ascendancy over the

people of that race in Arkansas. He was a member of the Minstrel (Clayton) State Central Committee when the fight was commenced on Baxter. He refused to join his former *confreres* in that fight, and when he heard that Brooks had taken forcible possession of the State House, he instantly tendered his services, by telegram, to Baxter, and commenced organizing the negroes to go with him to the State Capital to reinstate the Governor. He is a man of unusual strength of intellect and originality; full of resources, energy and audacity. He is so frank and fearless in his manner with men that he controls them by sheer force of will and dash—he runs over them, as it were, if he can. If he finds he cannot, bows to the inevitable, and follows with them or withdraws, as his interests may appear to him. He is a ready and impressive speaker and skillful debater at the bar or in the party convention.

After the excitement was all over Gov. Baxter sent the following telegraphic dispatch to President Grant:

*To the President of the United States:*

As I cannot move my troops to assert my claims to the office of Governor without a collision with the United States troops, which I will not cause under any circumstances, I propose to call the Legislature together at an early day and leave them to settle the question, as by law they alone have the jurisdiction. But to do this the members of the Legislature

must have assurances of protection from you and a guaranty that they may meet in safety. This will be a peaceable solution of the difficulty, and I will readily abide the decision of the Legislature.

ELISHA BAXTER,  
Governor of Ark.

This was a capital thought. It was as simple as the discovery of America by Columbus, wafted by trade winds; yet thoughtful and comprehensive. That body, it will be remembered, contained the twenty-eight men whom the Brooks convention placed on a "roll of infamy." That body voted down the "railroad steal bill" of McClure & Co., and rejected Brooks' petition for a contest against Baxter.

In a short time Gov. Baxter received from the President, himself, the following dispatch:

WASHINGTON, April 22, 1874.

*Hon. Elisha Baxter, Little Rock:*

I heartily approve any adjustment peaceably of the pending difficulty in Arkansas—by means of the legislative assembly, the courts or otherwise—and I will give all the assistance and protection I can under the Constitution and laws of the United States to such modes of adjustment. I hope that the military forces will be now disbanded.

U. S. GRANT,  
President.

Thereupon Gov. Baxter immediately called a meeting of the Legislature in extra session to meet at Little Rock May, A. D. 1874, signed by him and countersigned by J. M. Johnson, Secretary of State, but still over the Govern-

or's *private seal*, "the seal of State not being at present accessible."

The *Republican* of the 23d contained a misspelled copy of Baxter's proclamation for an extra session, with types having the appearance of being *pied*, without inserting or publishing separately the President's dispatch to Baxter. But an editorial article in the paper of that issue alludes to it in the following terms:

The grave change in the situation yesterday toward night was manifest to every one on the streets. The telegram of the President, though brief, and not at all dictatorial, produced its effect. Where but a few minutes before its receipt, had been armed men not at all inclined to show how one can love his neighbor as himself, but a few minutes afterwards were cheering, if not cheerful individuals, who proclaimed "this cruel war is over," and they went home on foot and otherwise at once. There was only a small guard left about Gov. Brooks and Mr. Baxter to insure their safety, etc., from that class who do not know what law is, and never respect it.

Forty-five Federal soldiers, armed, came down on the Cairo & Fulton railroad *via* Columbus, from Humboldt, Tenn., under Lieut. Noble, of the Sixteenth U. S. Infantry, to reinforce Col. Rose. Col. A. C. Pickett and Judge McCurdy, with a company to reinforce Baxter, attempted to get on the same train, but were prevented, by the aid of this force, from taking passage without paying their fare. They waited for the next train.

The Secretary of State, J. M.

Johnson, having arrived in Little Rock after a short visit to his home in Madison County (elected over Fulton, the colored candidate, by a large majority), whose title to his office was never questioned, went into the State House the 22d inst. to take his place in his office, but was refused permission to take charge of the office or the papers. Gen. Upham, before admitting him, demanded that he send his card to Gov. Brooks, who, hearing the conversation, came out to meet him. Johnson desired of him to know if he recognized him as Secretary of State, to which Brooks replied that he did not, after his action of signing Baxter's proclamation calling an extra session of the Legislature. Col. Johnson retorted that he was not aware that Judge Whytock had decided that *he* was not *Secretary of State*, and asked by what right he was denied admission. "Military necessity," replied Gov. Brooks. Thereupon the Secretary retired and made application in writing for the books and records of his office. He received no reply. He appointed Hon. A. H. Garland his deputy.

A large body of negroes the same day went into the Brooks camp from Forrest City. W. P. Walsh and Geo. Prichard arrived with a few "colored troops" and went into Brooks' lines. The "river news" of the daily papers

of that date also chronicle that "the steamer Clarksville left for Memphis Wednesday afternoon, taking with her to Pine Bluff Col. H. King White's colored troops." On the 24th Col. White telegraphed Gov. Baxter from Pine Bluff that he had organized 200 *white men*, armed and mounted, ready to move whenever he should receive orders. And the same date Gov. Baxter, through A. H. Garland and E. W. Thompson presented to John McClure, for the consideration of Mr. Brooks, propositions in five paragraphs, summarized as follows:

1. That all troops, of either side, be dismissed to their homes, except a body-guard for each contestant.
2. That hostilities cease and disputes be submitted to a competent tribunal.
3. That no person be molested for anything done during the disturbances.
4. That Col. Page (Treasurer) furnish transportation to departing troops.
5. That citizens having business with the State offices be admitted peaceably, without molestation, to such office.

To this proposition Gov. Brooks replied in an article of nearly a column, as published in the *Republican*, beginning:

*Hons. A. H. Garland and E. M. Thompson:*

GENTLEMEN—The propositions submitted by yourselves on behalf of Elisha Baxter, to me through Judge McClure, have been received. You assume at the outset that the question of who is the legal and rightful Governor has not been decided by competent au-

thority. (He then sets forth all the grounds of his claim to the office.)

If Elisha Baxter proposes to resort to peaceful means to enforce his rights, he does not need even a company of armed men at the capital, and if he proposes to assert his pretended rights by force, I must and will, of necessity, place myself in condition to repel attack. \* \* \*

I have, through Col. Henry Page, one of my aides-de-camp, been furnishing transportation to such persons from the country as have been induced to come here to depose the legal Governor, who on learning *the facts*, desired to return to their homes. You can say to *one and all* of Elisha Baxter's followers, that Col. Page will, at any time, on application, furnish transportation to such as may desire the same.

Persons desiring to transact business with any of the offices of the State, including the *Executive office*, need have no fears in going to the State House of being interrupted or disturbed.

JOSEPH BROOKS,  
Governor of Ark.

On Monday the 26th inst., after a twenty-four-hour truce, all was quiet along the contending lines. Both sides published offers of reinforcements. The preparations for the combat continued. In the Brooks camp there was drilling and throwing up breastworks around the State-house yard. These preparations were closely watched by and known to the other side. The material of which the Brooks army was composed was pretty well understood: several hundred intrepid white men, under the lead of brave and experienced officers from both armies

of the late war, and a great many negroes.

That day, for covering and aiding an assault when it should be decided that one was to be made, the Baxter men hauled up to Scott street and repaired the old sixty-four-pounder that had stood on the river bank near the Kramer school-house, where it had been spiked by the Confederates on the evacuation of the city, having formed part of the battery of the gallant Capt. John T. Trigg, who was unable to move it off, and afterwards known as "Lady Baxter." Gov. Baxter, on the same day, sent the President the following dispatch:

On the 19th of this month, as Governor of this State, I telegraphed you that there was an armed insurrection against the legal government of this State, and made requisition upon you for aid to suppress it, and to prevent domestic violence. I have just now been advised that you never received that requisition. I now take occasion to say that an armed insurrection exists in this State against the lawfully constituted authority thereof, and as the Legislature cannot meet until the 11th day of May, I call upon you for aid to protect the State from domestic violence.

ELISHA BAXTER,  
Governor of Ark.

On the 28th H. King White, at Pine Bluff, now promoted Brigadier General, telegraphed General Newton that he had 1,300 men enrolled; would send 200 around to Little Rock on Thursday. Signed, "H. King White, Brigadier General Commanding."

The Brooks men showed no disposition to cease hostilities. Two thousand Springfield rifles and 13,000 rounds of ammunition were shipped to Brooks from St. Louis, through purchases by Geo. W. McDiarmid, paid for out of the State treasury, *i. e.*, on the State's credit. The arming of militia to fight over the property of the wretched people of Arkansas would pay their former State expenditure. This will give an idea of the luxury of war, when rulers of old contended for the prey that official power still suggests. Financial schemes of gain are an improvement on the older method—not so hazardous to life and limb. "The patent drill" of office, the poet Lowell suggested, as the better method of modern civilization. Modern civilization, like the ancient, has only to be "scratched" to disclose the savage under the skin.

The *Republican* of the 27th stated that Col. Page had already furnished transportation for over four hundred of Baxter's men returning to their homes, but in the same column relates the arrest of an Eastern correspondent while viewing the "big gun" in the Baxter lines; also published the following telegram from Pine Bluff, of April 25th, entitled, "How is This?" :

Jefferson County is under martial law by command of Brig.-Gen. White, of Baxter's forces. Sheriff's office, with tax-books and

funds taken possession of under protest. Drew, Lincoln and Bradley counties all right for Brooks. (Signed by the Sheriff.)

J. F. VAUGHN.

After this telegram came the following :

PINE BLUFF, April 25, 1874.

*John M. Clayton :*

King White has taken possession of the court house and telegraph office.

GEORGE HAYCOCK.

PINE BLUFF, April 25, 1874.

Martial law is declared in Pine Bluff. Drums beating up and down the street.

J. W. M. MURPHY.

PINE BLUFF, April 27, 5:35 P. M.

King White with an armed force in the court house. Barton has issued a circular order assuming command of the Eastern District of Arkansas. Clay and Rice with thirty men here from Lincoln. Say they are going to reinforce Baxter.

F. K. LYMAN.

In his testimony, afterwards, before the Poland Committee, Gov. Baxter denied that he had ever authorized martial law throughout the State or in Jefferson County :

I did declare martial law in Pulaski County, and attempted to enforce it. I did enforce it as best I could, and would do so again under similar circumstances. I want to say once for all, that I think it unmanly for those gentlemen to complain about arrests, and about this man being taken and that man being taken during a state of war. I understand a state of war to mean freedom to make arrests and, if necessary, to kill men.

This leads me to speak something by way of explanation of a separate declaration of



martial law in Jefferson County. Although some of my own friends have attempted to explain it, they never have explained it so far as I know. As a fact, during "the troubles" (I do not know what else to call them) I was on one occasion very unwell. I believe (though my physicians never told me) that I was under the influence of opiates. A number of distinguished gentlemen (who were required by my physicians not to disturb me), without any sort of communication with me, in consultation by themselves, in a separate room (as I understand the case), concluded that it would be better to have martial law declared throughout the State. Some one of them drew up a proclamation of martial law. I think Gen. Newton, the Major General commanding, was present. At least that is the way I understood it. He, assuming that I would sign the proclamation, telegraphed to King White, in Jefferson County, that martial law was declared throughout the State. When this proclamation was brought for my signature I declined to sign it.

The *Republican* of April 25th, published the following as a "full roster" of military officers in command of Gov. Brooks' State Militia, furnished by Adj.-Gen. Upham:

Major General, commanding State Militia, R. F. Catterson; Commandant of the Post, Lee L. Thompson; Brigadier General, O. S. Dillon; Adjutant General, D. P. Upham; Chief of Artillery, Col. Edwin Bancroft; Surgeon General, Thomas Smith; Asst. Quartermaster General, M. L. Andrews; Ordnance officer, Maj. Geo. M. French; Captain Brigade Surgeon, Jas. A. Dibrell, Jr.; Major Brigade

Surgeon, David H. Dungan; Asst. Surgeon, A. F. Kaufman; Quartermaster, Henry Rudd; Capt. and Asst. Quartermaster, Moses Reed; Capt. and A. A. G. Staff of Gen. Lee L. Thompson, John S. Duffie; Aide-de-Camp, W. B. Morgan; Capt. 1st Reg. Light Artillery, Jas. A. Bridgman; 2d Lieut. Battery, W. E. Hinman.

The officers of the First Regiment State Militia, are: Col. John Brooker, Lieut.-Col. A. S. Fowler, Maj. J. D. Sibbald, Maj. J. A. Sibbald on staff of Gen. Catterson; Captains George N. Perkins (col.), Wm. H. Rector (col.), Jesse Butler (col.), Isaac Gilliam (col.), J. K. Barnes (w.), Henry K. Pinkney (w.), Ed. F. Stowell (w.) Neal Brown (col.), Chas. Goerte, commissioned Captain of the Governor's Guard.

While under the excitement of news of King White's reign of terror in Jefferson, the Brooks people heard heavy firing in the neighborhood of the Union Depot. About 2 A. M. the 30th of April, Gen. T. J. Churchill with a party of Baxter men, including his aide-de-camp Terry, Ed. Doyle, Booker Worthen, Henry Brooking, Frank Timms, Fred. Syberg, Eustace Officer, J. M. Pomeroy and E. Conway, marched to the depot to protect an expected arrival of Baxter reinforcements. A detachment of Brooks militia, commanded by Col. W. S. Oliver, was sent out of the State House to

reconnoiter their movements. George Counts, in advance, was fired upon by the Baxterites, who, finding themselves outnumbered, took refuge in a saloon near the depot. Col. Oliver, of the Brooks militia, surrounded the house and demanded their surrender. Pomerooy made his escape on horseback. Gen. Churchill was paroled. The others were kept in the guard-house a few hours and released. But something must be done at the State House.

April 30th Gen. Jas. F. Fagan, having been appointed by Gov. Brooks to the command of the Arkansas militia, published an address "to the people of Arkansas," in which he upheld the claim of Brooks to be the legally chosen Governor of Arkansas, and issued the following orders:

[General Order No. 1.]

HEADQUARTERS ARK. MILITIA FORCES, }  
LITTLE ROCK, April 30, 1874. }

By order of Gov. Joseph Brooks, Commander-in-chief, I hereby assume command of the militia forces of the State of Arkansas.

J. F. FAGAN,

Major General Commanding.

[General Order No. 2.]

HEADQUARTERS ARK. MILITIA FORCES, }  
LITTLE ROCK, April 30, 1874. }

The following officers are assigned for duty on the Staff of the Major General commanding militia forces of the State of Arkansas:

Brig.-Gen. Dandridge McRea, Chief of Staff; Lieut.-Col. D. M. Kavanaugh, A. A. G.; Col. Bob Newell, Inspector General; Col. Poindexter Dunn, Aide-de-Camp; Col. John D. McCabe, Aide-de-Camp; Col. M. L. Rice,

Judge Advocate; Col. John S. Duffie, Quartermaster; Col. Dan O'Sullivan, Chief Commissary; Maj. E. B. Blanks, A. A. Q. M.

By order of

J. F. FAGAN,

Maj. Gen. Commanding.

C. THROWER, Col. and A. A. G.

A lengthy and able address "to the people of Arkansas," in support of Gov. Brooks, was issued the same day by well-known citizens of Arkansas, viz.: J. G. Frierson, Geo. M. Wright, J. D. McCabe, W. R. Cody, Jordan E. Cravens, M. T. Sanders, H. W. McMillen, R. B. Carl Lee, Ben T. DuVal, D. McRae, J. F. Fagan, W. F. Rapley, L. H. Mangum, Lee L. Thompson, V. B. Izzard, P. Dunn, E. B. Blanks, M. Anderson, D. Breidenthal, C. Thrower, J. C. McCauley, D. M. Kavanaugh, J. T. Humphreys, M. L. Bell, L. C. Gause, T. M. Gunter and others.

Congratulatory telegrams were sent to Brooks, May 5th, from H. B. Stuart, J. W. Miller, R. D. Hearne and G. W. Reed, of Arkadelphia; W. H. Barry, of Monticello; R. H. Dedman, of Princeton, Elias Harrell, of Madison County.

The case of Brooks vs. Page, application for mandamus to Page to pay warrant issued on requisition of the Governor, was tried before McClure, Ch. J., and Stephenson and Searle. Governor Brooks' attorneys were his Generals, Mangum and McRae, M. T. Sanders, C. Thrower, A. A. G. of

Gen. Fagan, and W. G. Whipple, Gantt & Kimball, Benjamin & Barnes. Page, to protect himself, he declared, required an order of the court, and denied Brooks' official authority to make the requisition. A replication by Brooks set up the Whytock decision. Attorney General appeared for the State and submitted his briefs in the *quo warranto* cases of Brooks vs. Baxter and Wheeler vs. Berry. The court decided that Brooks had been awarded the office legally by Whytock's Circuit Court judgment, in these words:

The only question that we deem it necessary to notice, is: Did the Circuit Court have the jurisdiction to render the judgment in the case of Brooks vs. Baxter. *We feel some delicacy* about expressing an opinion upon the question propounded, but under the pleadings, it *has to be passed upon* incidentally, if *not* absolutely, in determining whether the relator is entitled to the relief asked; for his right to the office, *if established at all*, is established by the judgment of the Circuit Court of Pulaski County. We are of opinion that the Circuit Court had jurisdiction of the subject matter, and its judgment appears to be regular and valid.

Having arrived at these conclusions, the demurrer is overruled, and the writ of mandamus will be awarded as prayed for.

JOHN MCCLURE,  
JOHN E. BENNETT,  
E. J. SEARLE,  
M. L. STEPHENSON.

If Baxter was a usurper, so were the two Judges elected on the ticket with him—Searle and Stephenson.

No hesitation about signing *now*, even under the excitement of "war's alarms." No occasion for a "fly-leaf." Perhaps no air-drawn "fly-leaf" passed across the mental vision of Stephenson or Searle in signing their names to the foregoing "record." They fancied it a record. It could not rightfully be considered one under the circumstances.

Dispatches to Gov. Brooks were received, April 27th, from W. O. Lattimore, E. B. Harrison, H. C. Bottefur, T. J. Hunt, L. D. Flanigan and John Springer, sent from Fayetteville, assuring him of their sympathy with his cause, and other dispatches from R. L. Archer at Camden, J. A. Barnes at ElDorado, tendering "troops." News was sent him also from Pine Bluff that King White had arrested but released to report again Mallory, Kenyon and Silverman, just returned from Little Rock, and had taken C. H. Rice, a wealthy planter, prisoner, and captured Prigmore, and that he was watching for other Brooks men expected down by steamer.

Col. John A. Williams, who testified before the Poland Committee that he was "eminently a civilian," was also arrested on *two* warrants ordered by Gen. White. One, he testified, was issued by a magistrate, charging "treason, by giving aid and comfort," and the other "squarely charging treason." He demanded bail and it was fixed

at \$3,000 on the first, but denied altogether on the second! Williams wished to appear as counsel or Vaughan, the Sheriff, Prigmore, the Clerk, and Murphy, also under arrest. He said the warrants were in King White's hand, with which he was familiar. Murphy was rich, and he and White were great friends personally. Murphy was sometimes called "Coal-oil Johnny." He followed the lead of Col. Williams, and was active in behalf of Brooks.

April 30th the dispatches from Pine Bluff contained information that King White had left there with 200 men; that he went down the river on the "Hallie" to attack Murphy, who was collecting a force for Brooks on the plantations around New Gascony.

Dispatches from Pine Bluff, of May 1st, described an engagement on the 30th of April at New Gascony, on the Arkansas River, below Pine Bluff, in which King White, of the Baxter forces, surprised and put to rout a company of Brooks recruits (negroes) collected there by Col. J. M. Murphy, of the Brooks forces. Murphy's men were at Cornerstone church, about one hundred and twenty in number, having assembled for parade. White had come down on a steamboat from Pine Bluff, and pressing horses, had mounted his men, whites and some negroes, fully armed, and charged the Brooks new levies, who retreated

behind a fence and returned White's fire until their ammunition was expended. Nine of Murphy's men were killed (?) and thirty wounded. Vandesande was badly beaten over the head. Murphy was hit in the head. Surgeons were sent from Pine Bluff to care for the wounded. Three or four of Col. White's men were wounded. Murphy was taken prisoner and lodged in White's bastille at Pine Bluff. Johnny boasted that he was "self-made," but White said *he* "put a head on him."

On Sunday night, May 3d, as the Memphis train reached Argenta, having on board the two Associate Judges, John E. Bennett and E. J. Searle (they were returning to make a *quorum* of the Supreme Court of the State) Capt. Williams, of the Baxter forces, since Sheriff of Hempstead County, boarded the train with an armed escort. After a short parley he took the Judges prisoners and hurried them across the river in skiffs, but where they were taken could not be learned. Traces of them were found at St. John's College, after which all traces were lost. Their arrest and disappearance created the greatest excitement in the State House. It was believed by the Brooks people that the Judges had been taken into the woods south of the city and assassinated.

On the morning of the 4th of May, Mr. Eugene M. Bennett, of

the Merchants' National Bank, received from his father, Judge Bennett, through Gen. W. D. Blocher, of the Baxter army, the following note in his father's hand:

I suppose you know that Judge Searle and I were captured in Argenta last night. I am *alive* and well treated. Please telegraph your mother. Do not know when I shall be released.

May the 4th Gen. D. McRae, of White County, arrived and went upon duty as Chief of Staff of Gen. Fagan. Brig.-Gen. Mangum was commissioned and assigned to the command of the first brigade, comprising all the troops south of Markham street, including those in the Benjamin block. Gen. Ed. J. Brooks, of the Second Arkansas Infantry of Fort Smith, was commissioned Brigadier General and assigned to the command of the second brigade, which included the troops in and around the State House. Brooks received large reinforcements during the day. About 9 o'clock that night the Baxter guards were doubled, and no one was allowed to pass up or down Markham. All hackmen were ordered off the stand at the Metropolitan corner. At 10 o'clock Company C, U. S. Infantry was called out at the City Hall, west of the Metropolitan Hotel, and formed across Markham street, and at midnight Company I, U. S. Infantry, was stationed at the corner of Louisiana and Second streets. The people

were out in crowds after midnight, and great excitement prevailed without apparent cause. It proceeded from uneasiness caused by resentment at the capture of the two Judges.

A writ of *habeas corpus* was sued out and served on Gen. Churchill, commanding him to produce the bodies of E. J. Searle and John E. Bennett, the missing Judges. Gen. Churchill returned that they were not in his custody, and he had no knowledge of their whereabouts. Col. Page, upon request of Chief Justice McClure, produced the piece of paper found by him in a room in St. John's College, which he pronounced the writing of Judge Bennett. It was as follows:

AT ST. JOHN'S COLLEGE, May 3, 1874.

*Hon. Elisha Baxter, Governor, Little Rock:*

Upon the arrival of the Little Rock and Memphis—

That was all. C. H. Noble, Lieutenant U. S. Infantry, stated in a note to Judge McClure, that the unfinished note sent by him to Col. Page, was found in the room of Cadet Wilson. Young Wilson described the two persons who were brought to his room the night of the 3d, so as to leave no doubt that they were the missing Judges. On the 5th inst., passengers from Benton, Saline County, brought news that the two Judges were at the hotel in Benton under guard; that they arrived at Benton on

horseback, under the guard of fifteen or twenty Baxter men, who left them under a smaller guard.

Col. John C. Wright, ex-Confederate, was commissioned by Gov. Brooks Brigadier General of militia in Union, and R. B. Smith Brigadier General in Ouachita, Nevada, Dallas and Calhoun. News came from Fayetteville that Lieut.-Col. Fowler, of Brooks' forces had taken 106 stands of arms found in the Arkansas Industrial University, of which Judge Gregg was a director or trustee, and would land them in the State House. The following telegram was received from Pine Bluff:

*Senator Dooley:*

Vansande is out of danger. King White, with Savage and Stevens, arrived here to-day.

FRED. K. LYMAN.

The *Gazette* declined to publish the address of Gause, Bell and Gunter, the Brooks sympathizers at Washington City. Col. Cad Polk, of Helena, declined to follow Fagan into the Brooks camp. The *Republican* retorted that "there was another instance of such refusal, viz., the 4th of July, 1863, at Helena." Fagan was under Holmes in that assault on Curtis' breastworks. Whether Polk was in Fagan's command there or not, it is certain that he *led*, if he did *not follow* the commanding officers on that day.

The missing Judges made their escape at Ten-mile Creek, west of

Little Rock, while being guarded by two men, coming in the direction of Little Rock. They had been taken from St. John's College by Maj. Walter Watkins and four men the night of the 4th of May; arrived at Mr. Roland's farmhouse, near Benton, and breakfasted the next morning. They remained at Roland's until 8 p. m. Monday, under a guard in charge of Lieut. Summerhill, who informed them that he was ordered to remove them to Benton, "as a force of United States soldiers was in search of them." Asked to show his orders, he produced them to the Judges. They read as follows:

*To the Armed Guard on the Benton Road:*

You will immediately remove your command, and *those you have in charge* back toward Benton.

WM. A. CRAWFORD,  
Brigadier General.

Col. A. H. Rutherford, an old citizen of the vicinity, at their request, accompanied the prisoners to Benton, with their guard.

On the way they met Gen. Crawford, who took them to Benton and lodged them in Pack's hotel. The sheriff, Thompson, went to see them at the hotel and offered to discharge them, but they "did not desire to accept his proffered kindness, as they preferred to be released by the authority that placed them under arrest; that in the present excitement their release otherwise might

endanger property and life; they believed they would be protected in there personal safety *there*, and would not if they should go on the train." One sound conclusion though an interested one. They were called on by Col. Jabez M. Smith, a prominent lawyer, and by him it was suggested that Sheriff Thompson accompany them with a *posse* to Scott's, on the road to Little Rock, for that night. The Sheriff and the Lieutenant started with them from Benton Tuesday night. On arriving at the forks of the road the Lieutenant hesitated to meet the Federal soldiers who were supposed to be seeking them, and proposed to the Sheriff that he release them then and there, which they did, Summerhill giving up his pistol to Judge Bennett in assurance of his good faith and the Sheriff riding back to Benton. At Ten-mile Creek, meeting an armed force, Judge Bennett became frightened and escaped with Summerhill's pistol into the woods. Searle halted the command and found it to be a body of Federal soldiers, under command of Lieut. Morrison, in search of them. Bennett was all night traveling the ten miles to Little Rock, but got in about daylight.

May 5th Gen. Mangum, of Helena, former Adjutant General of Pat Cleburne, now Brigadier General of First Brigade in the Brooks army, issued his Order No. 1, on

assuming command. He assigns various officers to duty and concludes with paragraph

V. In assuming command, I would impress upon the officers and men the importance of strict obedience to orders. Our efficiency as soldiers depends upon it. We have taken up arms to *enforce the laws* and to *preserve peace*, not to make war. But if the issue of war be forced upon us, I rely upon your bravery and patriotism to meet it like men.

L. H. MANGUM,  
Brigadier General.

Brooks received most encouraging telegrams from E. A. Warren, Texarkana; J. W. Spaulding, Greenwood; Prof. James Mitchell, of Boonsboro; J. E. Bennett, of Fort Smith, who telegraphed that "the Democracy, excepting the bourbons of Sebastian, would sustain him to the bitter end."

May the 7th the steamboat *Hallie*, under command of Capt. Sam Houston as naval commander, her proper captain, Ed. Bowlin, and with Capt. Welch's company of forty men, Baxter forces, on board, was ordered by Gen. Newton to proceed up the river and intercept and capture if possible Col. Fowler, with his raft or flatboat, coming down the river with guns he had taken from the Arkansas Industrial University. Welch's company mustered about forty, and was composed of the first young men of the city, though indifferently armed. Will Terry, Worthen and Curran were officers also of the company. The *Hallie*

left about 3 o'clock A. M., and, in passing the State House, was fired upon. Gen. Fagan became aware of the object of the *Hallie's* mission, and in a short time had caused six companies of Brooks' First Arkansas militia, viz.: Company A, Capt. Aiken; Company B, Capt. Stowell; Company C, Capt. Pinckney; Company I, Capt. Cox; the Governor's Guard, under Capt. Chas. Goerte, and Capt. Gibbons' independent company, all under command of Col. Jack Brooker, to be put on board the train going to Fort Smith, with orders to leave the train and form on the north bank of the river, at the mouth of the Palarm Creek, which the railroad crosses near the river at the Boyle-Danley place, and prevent the further passage of the steamboat up the river. The channel of the river flows near the northern bank there. The militia got into position near the river protected by the undulations of the bank and logs placed in position, while the *Hallie* had stopped below to wood at the Natural Steps, on the opposite shore. Lieut. Grove was sent down the river a distance to hail the steamer, and as she came up order those in command of the boat to proceed no further, but return to Little Rock. When the steamer got under way and approached him within hailing distance and "slowed up" at his signal, he delivered his orders.

Capt. Houston, who was on deck, answered him with his characteristic brusqueness, and signaled the pilot to go ahead. The Baxter men, suspecting an ambuscade, as no one had appeared but Grove, went into position behind the bulwarks of thick plank that had been erected around the bow of the boat, forming a horse shoe, one side of which only afforded protection. It was well they did so, for as they neared the bank chosen for the ambush, they received a murderous fire from Brooks' men, armed with the latest and best improved army rifles. It riddled the six-foot sheathing of the pilot house into a sieve, severely wounded the pilot, Capt. John Meyers, in the breast, knee and calf of the leg, pierced the head of Capt. Houston, killing him instantly. A shot pierced the breast of Frank Timms, one of the Baxter men, who was passing forward from the engine room. Bascom Lee, another Baxter man, was severely wounded in the knee, and Ed. Houston, brother of Capt. Houston, and a negro roustabout, name unknown. The balls cut the steam-pipe and disabled the steamer so that she remained half or three-quarters of an hour under fire. Capt. Welch and company returned the fire until the steamboat was carried by her momentum and the wind three-quarters of a mile from the place of attack. and their ammunition



was exhausted. They mortally wounded, of the Brooks militia, Jack Blackford (colored) of Company B, —Coleman (colored) of Company C, and inflicted slight wounds on several others.

The steamer was carried or drifted against the south bank of the river, though there it is pretty wide, and the military went ashore. The mate tied up her pipe so as to steam over, and deliver her to the attacking party. Capt. Goerte and Lieut. Bell, of Brooker's command, were placed in charge of her and took her to Little Rock, where they tied her up to the land under the guns of the State House. Drs. Dibbrell and Dunningan were summoned and took charge of the wounded. The corpse of young Timms was taken home by relatives, and Bascom Lee speedily cared for. The killed were buried with imposing ceremonies.

Col. Brooker and his command returned by railroad to Little Rock, but did not march at once to the Fort Smith Junction, where he anticipated meeting a force of Baxter men. He remained awhile in position behind temporary breastworks of rocks on the declivities of Big Rock until informed that he could reach the bridge without opposition. His fortifications remained as he left them years after the occasion.

The Baxter men who had been on board the *Hallie* made their

way down the south bank to Cabin Point, where they crossed over to the north bank and got into the city through Argenta, about noon of the 9th. E. W. Rector, Esq., a young law student, one of the party, gives the following account of their adventures:

Capt. Welsh and the men of his command, after the boat had landed or drifted to the south side of the river, went ashore, and were soon aware that a body of cavalry had passed along the river bank, and, for fear of capture, took a by-path that led through a defile in the hills. Their ammunition had all been shot out. They reached Maynard's in time for supper and were most hospitably entertained. After supper, as Mr. Rector was somewhat acquainted with the country, they made him guide and pushed on down the south side until opposite his father's plantation at Cabin Point; they all crossed the river, thirty-five or forty of them, in a single canoe, two at a time, and camped by a spring branch of White Oak Bayou, near Old Jack Smith's house, a leader of the negroes in that locality. At the McCann place, on White Oak, they were furnished with breakfast by Mr. John Collins, who had been a proprietor of the Anthony House for many years. Everything was done that could minister to their comfort. After breakfast, they marched along the roads

and railroad track until they reached the Clendennin place, opposite Little Rock. There a scout of cavalry sent by Gen. Churchill met and escorted them into the Baxter camp.

A good portion of Saturday, May 9th, the Baxter men were throwing up fortifications on the river bank between Main and Scott streets. After dark single shots were fired into the Baxter lines while the Baxter men were placing the big gun nearer the river. About 3 o'clock Sunday morning a party of Baxter men fired, from the Red Mill, at Stonewall Jackson (colored), on guard, and thus brought out the Brooks guard on the *Hallie*, near there. During the melee, Baxter men, who had crossed in skiffs, scuttled the steamer *Hallie*, which sank to the cabin deck. Trains on the Fort Smith & Little Rock Railway stopped running on account of armed parties forcing passage.

Gen. King White arrived with a company of mounted men and a company of foot at noon Saturday and reported several hundred men fully armed coming on behind with ammunition and commissaries. About 6 P. M. Aiken's company, on guard at the sunken steamer, were withdrawn, and a guard of Federal infantry placed over her by Lieut. Noble. Col. Bancroft, of Brooks' artillery, gave notice to the citizens of Argenta that unless they prevented firing

across the river into the Brooks encampment, he would shell the town! John Blackford, of Capt. Stowell's Company, Brooks' militia, killed in the fight at Palarm, was buried Saturday, the 9th, at 5 P. M., with the honors of war. On Sunday morning Drs. Dibbrell and Dungan reported the Brooks wounded in the hospital, in the Benjamin block, Geo. Wilson, shot through the lung; Geo. Aiken, through the thigh, and Wm. Wilkins, whose leg was amputated, doing well.

Col. Fowler's flat with the Fayetteville needle-guns, having been towed down by steamer Danville, reached the State House Sunday night. Gen. Bishop, President of the University, went through the formality, at Fayetteville, of serving a writ of replevin for the guns on Col. Fowler, and summoning him to the June term of the Washington Circuit Court. Col. Fowler paid no attention to the writ of replevin, but kept the guns and pursued his journey with them. The State arms in the arsenal (1600 stand) were taken to pieces by the Federal commander and secreted.

About 2 o'clock White's cavalry crossed the river, supported by the Lonoke company, Captain Eagle, and threw out a line along the Cairo & Fulton railway, to attack the Brooks force covering the landing of the Danville, with the Fayetteville needle guns and supplies. Brooks men crossed the

bridge to meet them. About 8:30 the firing was rapid on both sides and the river bank lined with citizens watching the skirmish. Col. Rose dispatched a company to Baring Cross, west of Argenta, and quartered them in the railroad shops. A Rodman gun was planted at foot of Louisiana street, commanding the low-lying level of Argenta. About noon a large force of Baxter men got off at the junction from Newport. The only casualty reported was one colored man of the Brooks camp killed, two wounded on the Brooks side and four on the Baxter side. The Baxter men held possession of the Fort Smith & Little Rock Railroad shops, from which the Brooks men tried to drive them. The workmen who remained in the shops lay on the floor to avoid the bullets.

News of the arrest was received on the 9th of Gen. Brizzolara with eight men, at Spadra on the 6th, whither they were sent to seize the steamboat Robert Semple, belonging to G. A. Meyers. The owner obtained a warrant, which was served on Brizzolara by an armed posse, the boat protected, and the would-be takers released.

On the 9th of May some Baxter men attempted to capture Lieut. Summerhill, who, after releasing the captured Judges, had deserted to the Brooks camp. As he and Sam Williams (of Lewisburg) and two colored men were going into

Gleason's Restaurant, under the Metropolitan Hotel, Summerfield ran, and they fired at him and hit Williams in the head, killing him instantly.

The United States Infantry was called out at the sound of the firing, and formed across the street in front of the City Hall, behind the movable barricade of the fire-trucks. Two Rodman guns, from the arsenal, were placed in battery at the corner of Markham and Louisiana, a few feet behind or west of the line of infantry. Brooks men covered the roof of the Benjamin block with arms, prepared to participate if there was a charge by the Baxter men. During the excitement a lady at breakfast at the Anthony House fainted while in conversation with Mr. Garland, who was acting as Baxter's Assistant Secretary of State, and who assisted the lady to her room. The United States Regulars, Saturday night, were stationed in the front and rear of the City Hall, on the corner of Main and Third and corner of Main and Fourth. Great cheering in the Baxter lines at the arrival of reinforcements for Baxter from Lonoke.

The following dispatch from the United States Attorney General to each of the "Governors" was received at Little Rock, May 9th:

WASHINGTON, D. C., May 9, 1874.

It is agreed, this May 9, 1874, at Washington, D. C., between the respective attorneys and agents of Joseph Brooks and Elisha Baxter,

claimants for the office of Governor of the State of Arkansas, that on account of the conflicting claims of the parties and the division of sentiment among the people of said State, that the Legislature of the State shall be called by the said Brooks and Baxter to meet in extra session on the fourth Monday of May A. D., 1874, at 12 o'clock noon, at the usual place of meeting in the State House, each to issue a separate call forthwith for that purpose, and the Legislature so called shall be permitted to meet without molestation or hindrance by either of said parties or their adherents.

That they shall receive and entertain a communication from Mr. Brooks, setting forth specifically the ground for his claim to the office of Governor, as well as his reason for contesting Baxter's right thereto. That they shall investigate the facts and allegations so set forth by Brooks, and such investigation shall be conducted in the manner prescribed by the Constitution and laws of the State, giving to both parties a full and fair hearing upon such competent and relevant testimony as either may offer. That the Legislature shall determine in the manner prescribed by law which of the contestants received at the November election, 1872, a majority of the legal votes, and declare the result, and the parties shall abide that action.

Brooks and Baxter shall each relieve from duty and send home all his troops, retaining only so many as each may think necessary as a body guard at Little Rock, not exceeding one company. All warlike demonstrations are to forthwith cease, and both parties are to keep absolute peace and refrain from any interference with each other or their adherents until the contest is finally decided by the Legislature, or the national government has taken action thereon. That until the determination by the General Assembly as to who was legally elected Governor, on a contest to be made before that body by Joseph Brooks, the question as to

which of the contestants has the legal right to exercise the functions of the office of Governor must at his discretion be determined by the President on the applications heretofore made to him by the respective contestants; that the Legislature shall receive from each claimant to the office such communications as either may send it until the contest for the office is finally decided by the General Assembly.

I submit the foregoing plan of adjusting the difficulties in Arkansas to the claimants for Governor, it having been agreed to by all their friends and attorneys here, subject to approval, and I have to say that the President earnestly desires its adoption by both parties.

GEO. H. WILLIAMS,  
Attorney General.

Joseph Brooks, in his dispatch of the 10th of May, accepts this extraordinary and impracticable suggestion of the Attorney General.

Elisha Baxter, instead of accepting it, issued the following brief address to his "troops," declining to be a party to it, without giving any reasons:

EXECUTIVE OFFICE, STATE OF ARK., }  
LITTLE ROCK, May 11, 1874. }

*Citizen Soldiers:*

The Little Rock *Republican* of this date publishes a proposition of Mr. Brooks' friends, submitted to me through the Attorney General. I have to say to you that I have declined the proposition.

ELISHA BAXTER,  
Governor of Arkansas.

Rice and Burton made formal arguments before the Attorney General in favor of Brooks, submitted in writing.

Hon. U. M. Rose, at the request

of the Baxter men and the Governor, went to Washington to present the Baxter side of the controversy. His ability and experience as a lawyer is unexcelled. He was perfectly familiar with the law and the facts in the case. By his unimpassioned but incisive argument of a case he was eminently fitted to present such a case to a trained judicial officer or tribunal, and no doubt greatly aided the Attorney General in obtaining the clear understanding of the subject displayed in the opinion of that officer subsequently rendered.

On the 11th of May Mr. Brooks sent his *ultimatum* to the Attorney General, which was that the President must recognize either Baxter or him, upon this case as *made on the papers*.

On the 11th of May Governor Brooks telegraphed the President of the United States that he had consented, and was willing to make a joint call with Baxter of the Legislature, and let the quorum *now* in existence pass upon the question as to whether there were vacancies in the districts claimed to be represented by *new* members; but that he could not recognize the body as organized, and now within the Baxter lines. That the question of the authority of that body could only be determined by the *courts of the State*.

This presented the original difficulty of the validity of the decisions of the *courts* of the State.

That had been already disposed of by the Attorney General's opinion, written, but not yet sent to Arkansas. Again, on the 14th, the day before the opinion of the Attorney General was dispatched to him, Gov. Brooks sent another dispatch to the President, setting out seven paragraphs: 1. His election by the people. 2. The judgment of the Circuit Court. 3. His installation under that judgment. 4. The judgment of the Supreme Court, recognizing the judgment of the Circuit Court. 5. That he had the recognition of every branch and member of the State government, except that of the Secretary of State. 6. That the Circuit Court judgment had gone up on an appeal, and would be decided in a few days (inside his military lines). 7. He was willing to submit the legality of his election as proposed in *his* (the President's) suggestion of the 9th inst. (the Attorney General made that proposition), which Baxter had rejected.

These dispatches were superfluous, and must have been hurtful to him. They remind us of the ancient description of the supports of the earth—first an elephant standing on a tortoise, and the tortoise on the sea.

At 11 o'clock, May 12th, Col. John S. Duffie, who had captured a Baxter picket at corner of Scott and Third, narrowly escaped shooting by a Baxter squad under Ben

J. Johnson, and was only saved by the intervention of Federal soldiers. The same day the steamer Robert Semple arrived from up the river, and was reported to be loaded with Baxter men. Detachments of Brooks militia were ordered to the boat on the south side of the river, just above the bridge. Detachments of Baxter men reaching the same locality, skirmishers were deployed by each side and firing commenced. The militia occupied the old rifle pits near the Union depot. Baxter's men were in positions on Fifth, Sixth and Seventh streets, further south, under Gens. Churchill and Blocher. Gen. White, with his cavalry, occupied a position behind the Penitentiary and on the hills of the Deaf Mute Asylum, overlooking the depot and extending to Capital Hill southward. For two or three hours the firing between the Baxter men and the militia was very heavy, rendering it unsafe for pedestrians and frightening families, whose houses were struck with bullets. About 4 o'clock Col. Clayton took command of the right wing of Brooks' militia, when a resolute attack was made by the Baxter men on the Fort Smith company, at the corner of Spring and Second streets. Company I, United States Infantry, went from Arch street over to Broadway on a double quick, but the Baxter men had retired and the fight was over. At the

Hornibrook residence the fight was also lively. Gen. Blocher engaged at close quarters a party of Brooks' militia. Thomas Gillem, of Brooks' militia, and Berryman, of the Baxter forces, were wounded and at the request of Mrs. Hornibrook carried into her residence. A hack soon came with a white flag for Berryman. Capt. Carr had his horse killed. Cannon purchased in Texas for the Baxter forces were looked for on the train from Texas.

The extraordinary session of the General Assembly met on the 11th within Baxter's lines, in the Ditter block. In the Senate there were Askew, Beavers, Bunn, Duke, Frierson, Hanks, McChesney, Ratcliffe, Scott, Pollard and Jones, which was not a quorum. In the House were Pindall (acting as Speaker), Arnold, Barton, Beasley, Boswell, Burton, Carter, Coffin, Conway, Cleveland, Crowell, Davis L. W., Davis S. F., Duffie, Eagle, Erwin, Files, Foster, Galbreath, Gest, Gassett, Hawkins, Hixon, King, Johnson B. W., Johnson C. C., Johnson L. L., Joyner, Lester, Mitchell, McClellan, McGuire, Montgomery, Pindall, Preston, Reed, Sumpter, Thompson, Tillar, Walker, Wheat. On motion of Mr. Sumpter that pages be appointed, Masters J. J. Wheat, John Petit and Walter James were made pages.

Early in the morning of the 13th of May, the looked for Parrott

guns, two twelve-pounders brought up from Galveston by Maj. Woodruff, were received by a sufficient force of Baxter men and escorted to a position on Scott street, near "Lady Baxter," the big siege gun.

Fifteen Baxter men, among whom were Gen. Meyers (of Spadra, owner of the Robert Semple), were captured by Brooks' militia. Col. Sam W. Williams and Gen. James Pomeroy, made a visit to Brooks' headquarters to obtain their release. They were ultimately released. Street fights and pistol-shooting at the corner of Main and Markham caused a general rally to arms on both sides.

On the 13th Messrs. Dunnagan and McCabe being sworn, took their seats as Senators, and that body having now a quorum, the General Assembly was organized; and after some preliminary business adjourned to the 14th, at 10 o'clock A. M.

On the 14th the Legislature passed a joint resolution requesting the President of the United States to put the Legislature in possession of the legislative halls, and that the "public property of the State-house square" be placed under control of that body.

All these steps were in the right direction. They were powerful to demonstrate the illogical position of the parties claiming possession of the executive office, rejecting other officers and shaping judicial decisions to suit them.

The course of events was casting an ominous shadow for Mr. Brooks. On the 15th of May the Attorney General submitted his opinion in the Arkansas case. Let it be carefully read in the light of events related in these pages. It will be interesting to every one who has followed the movements of the actors in this modern play—containing so much that is of deep meaning, and yet, withal, more comical than anything in its line since the days of Hudibras.

The following is the opinion of the Attorney General:

DEPARTMENT OF JUSTICE, }  
WASHINGTON, May 15, 1874. }

*The President:*

SIR—Elisha Baxter, claiming to be Governor of Arkansas, and Joseph Brooks also claiming to be Governor of that State, and each made application, etc. [Stating the conflicting claims and the provisions of the Constitution of the State then in force governing the canvassing of election returns and contests for the office of Governor, what was done under it, the decision on quo warranto, the snap judgment of Whytock and expulsion of Baxter by Brooks from the Executive office.]

Section IV. article 4 of the Constitution of the United States is as follows: "The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature or the Executive (when the Legislature cannot be convened), against domestic violence."

When in pursuance of this provision of the Constitution the President is called upon by the Executive of a State to protect it against domestic violence, it appears to be his duty to

give the required aid, and especially when there is no doubt of the evidence of the domestic violence. But when two persons, each claiming to be Governor, make calls respectively upon the President, under said clause of the Constitution, it, of course, becomes necessary for him to determine, in the first place, which of said persons is the constitutional Governor of the State. That section of the Constitution (1868) of Arkansas (sec. 19 of art. 6) heretofore cited is decisive of this question as between Baxter and Brooks. According to the Constitution and laws of the State the votes for Governor were counted and Baxter declared elected and was at once duly inaugurated as Governor of the State. There is great difficulty in holding that he usurped the office into which he was inducted under these circumstances.

Assuming that no greater effect is to be given to the counting of the votes in presence of the General Assembly than ought to be given to a similar action by a board of canvassers, yet, when it comes to decide a question of contest, the General Assembly is converted *by the Constitution into a judicial body*, and its judgment is as conclusive and final as the judgment of the Supreme Court of the State.

\* \* \* \* \*

But the tribunal is not special if the courts have concurrent jurisdiction over the subject. Brooks appears to claim that when a contest for Governor is decided by the General Assembly, the defeated party may treat the decision as a nullity and proceed *de novo* in the courts. This makes the constitutional provision as to the contest of no effect, and the proceedings under it an empty form. When the House of Representatives dismissed the petition of Brooks for a contest, it takes the State offices therein enumerated out of the purview of section 525 of the digest of State statutes and establishes a special tribunal to

try these contested election cases to which they are parties. The jurisdiction of this tribunal is exclusive. (15 Ohio, 114; 28 Penn., 9; 35 Ib. 263; 44 Ib. 332.) \* \* \*

Since the foregoing was written I have received a *telegraphic* copy of what *purports* to be a decision of the Supreme Court of Arkansas, delivered on the 7th inst. Upon a requisition of Brooks the Auditor, Wheeler, drew his warrant upon the Treasurer, Page, for the sum of \$1,000, payment of which was refused. Brooks then applied to the Supreme Court for a writ of mandamus upon the Treasurer, who set up by way of defense that Brooks was not Governor of the State. The Court says:

"The only question we deem it necessary to notice is, did the Circuit Court have jurisdiction to render judgment in the case of Brooks vs. Baxter? We feel some *delicacy* about expressing an opinion upon the question propounded, but under the pleadings it has to be passed upon incidentally if not absolutely in determining whether the relator, Brooks, is entitled to the relief asked; for his right to office, if established at all, is established by the judgment of the Circuit Court of Pulaski County. We are of opinion that the Circuit Court had jurisdiction of the subject matter, and its judgment appears to be regular and valid. The writ of mandamus will be awarded as prayed for" (to Brooks as having right to make a requisition as Governor).

To show the value of this decision, it is proper that it must be taken as a decision of that body on questions presented in the petition. It is not of any consequence whether or not the General Assembly has in fact decided the contest, if the exclusive jurisdiction to do so is vested in that body by the Constitution and laws of the State.

Doubtless the makers of the constitution considered it unsafe to lodge in the hands of



every Circuit Court of the State the power to revolutionize the Executive at will, and their wisdom is forcibly illustrated by the case under consideration, in which a person who had been installed as Governor according to the Constitution and laws of the State, after an undisturbed incumbency of more than a year, is deposed by a Circuit Judge, and another person put in his place upon the unsupported statement of the latter that he had received a majority of votes at the election.

Summing up the whole discussion, the Supreme Court of Arkansas say in the case of the Attorney General against Baxter :

"Under this Constitution the determination of the question as to whether the person exercising the office of Governor has been duly elected or not is vested exclusively in the General Assembly of the State, and neither this nor any other State Court has jurisdiction to try a suit in relation to such contest, be the mode or form what it may, whether as the suit of the Attorney General, or on the relation of a claimant through him, or by an individual alone claiming a right to the office. Some effort has been made to distinguish this case from that of Brooks vs. Baxter, in the Circuit Court, by calling the opinion a dictum; but the point presented to and decided by the Supreme Court was, *that in a contest for the office of Governor the jurisdiction of the General Assembly was exclusive*, which of course deprived one court as much as another of the power to try such a contest.

The case of Berry and Brooks are exactly alike. That the Circuit Court should have rendered a judgment for Brooks under these circumstances is surprising, and it is not too much to say that it presents a case of judicial insubordination which deserves the reprobation of every one who does not wish to see public confidence in the certainty and good faith of judicial proceedings wholly destroyed.

Chief Justice McClure, in the Berry case,

declared his opinion that "As to all matters of contested elections for the offices of Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, Attorney General and Superintendent of Public Instruction, I am of opinion that it can only be had before the General Assembly. I think a writ of prohibition ought to go to prohibit the Circuit Court from *entertaining jurisdiction* of that portion of Berry against Wheeler that has for object a recovery of the office." \* \* \*

Take the provisions of the Constitution and the two decisions of the Supreme Court and the conclusion irresistibly follows that the judgement of the Circuit Court is void. A void judgment hurts nobody.

I should make the following statement: On the 20th of April Brooks made formal application to the President for aid to suppress domestic violence, which was *accompanied* by a paper signed by Chief Justice McClure and Justices Searle and Stephenson, stating that they *recognized Brooks as Governor*. To this paper is appended also the name of Page, the respondent in the above named proceeding for mandamus. Page, therefore, did not refuse to pay the warrant of the Auditor because he did not recognize Brooks as Governor, but the object of his refusal evidently was to create such facts as were necessary to make a case for the Supreme Court. Accordingly the pleadings were made up by the parties, both of whom were on the same side in the controversy (had declared to the President that they recognized Brooks), and the issue so made was submitted to *Judges virtually pledged to give the decision wanted*, and there within the military encampment of Brooks they hurriedly but *with delicacy*, they say, decided that Brooks is Governor, a decision in plain contravention of the Constitution and laws of the State, and in *direct conflict* with two other recent decisions of the same Court deliberately made. I refrain from comment. More than

once the Supreme Court of the United States has decided that it would not hear argument of a case made up in this way, and a decision obtained under such circumstances is not regarded as authority in any respectable tribunal.

He recommended to the President immediate action.

On the 14th of May the Senate met in the Ditter block at 10 o'clock, and elected J. G. Friereson, of Pocahontas, President over Askew. Mr. Askew gave notice that at an early day he would introduce a bill for the purpose of calling a Constitutional Convention. The same day and hour the House met in the same building and elected James H. Berry Speaker.

On the 14th of May the Governor sent in to the House his message, stating that as Executive of the State he had called the Legislature to assemble in extraordinary session. He referred to the existing contest between claimants for the Executive office, and the successive steps taken in it. His call upon the people to suppress an armed insurrection had been responded to promptly, but in his efforts to re-possess the State House he had been thwarted by Federal troops intervening to prevent bloodshed, and had appealed to the National authorities, in accordance with law to prevent domestic violence. That the President had responded, favoring the meeting of the Legislature and guaranteeing it protection. To

it then is submitted the question, who is Governor of Arkansas, under the general election held Nov. 5, 1872? He invited its attention to the absolute necessity of calling a State Constitutional Convention.

Since war is now over, and the misunderstanding between those who took sides in it is corrected and explained, it will throw much light upon a labyrinth of difficulty through which the President, his cabinet, and legislators had to grope for months, to publish in this work, for the first time, the letter of Col. John S. Duffie, who was an original Reformer, and high in the Reform councils, and a quartermaster, with the rank of colonel, in the Brooks army. He makes the whole matter as simple as any mysterious course of events can be made, by a principal actor, when theories have failed and logic has become useless for want of the true premise from which to make a deduction. The following is his letter:

WASHINGTON, D. C., March 5, 1882.

DEAR FRIEND—I have been requested to furnish such facts as I am in possession of relative to inside history of the Brooks-Baxter war.

It will be remembered that Brooks favored re-enfranchising the disfranchised white people of the State. That upon that platform he was nominated by the Liberal Republican party, and the Democratic party supported him. He was elected by about 15,000 majority. It was given out that the Democratic and Lib-

eral Republican parties would hold a mass meeting on the day of the inauguration. The Republicans, fearing that the intention was to put Mr. Brooks in by force, sent to Washington, D. C., and got a regiment of Federal troops, and had soldiers stationed in and about the Capitol grounds on that day, consequently we could do nothing but submit.

On the night after the inauguration a mass meeting was held in Little Rock, and a series of resolutions, carefully prepared by a few gentlemen, were introduced by myself. They were unanimously adopted. Among other things, they declared that Brooks was elected, etc., and provided for a central committee with three members from the Democratic party—Gen. James F. Fagan, Col. Lee Thompson and myself; and three from the Liberal Republican party—Hon. B. F. Rice (I have forgotten the names of the other two). Said committee was instructed to use all lawful means to oust Mr. Baxter from and install Mr. Brooks in the gubernatorial office. The committee, in conference with Mr. Brooks, decided to bring suit in the Pulaski Circuit Court for the office, Judge Whytock presiding. Matters went on so for about two years. Finally the stalwart Republicans became dissatisfied, and our committee began to have frequent conferences with Mr. Brooks.

The agreement between the committee and Mr. Brooks was that Mr. Brooks should call the Legislature together as soon as he was recognized as Governor and recommend a Constitutional Convention, and that, if possible, we should have such convention frame a new Constitution and have an entire new election of officers, and that Mr. Brooks was to run on the Liberal ticket for Governor. Mr. Brooks was entirely willing to this arrangement—indeed, seemed anxious to go before the people in this way for vindication. He believed and the committee believed he would be triumphantly elected, and I am still of the opinion

that such would have been the case had the Democrats permitted us to carry out the programme.

Our meetings were in the upper story of the old kitchen of the Bebee building, just in front of the State House, and as we had no gas, we were sometimes nearly in the dark. It looked gloomy enough, but we meant business. We were trying to perform the duty entrusted to us by the mass meeting heretofore spoken of. The decision had not yet been rendered by Whytock. *It was being held for other developments.*

When Mr. Brooks received absolute assurance from the United States Senators at Washington that he would be sustained, Hon. B. F. Rice was charged with the duty of getting Judge Whytock to render a decision on a certain day. Hodges was to swear out a warrant against Baxter for usurping office, and Baxter was to be arrested and confined in the Secretary of State's office for a few days, so that the other side could have no nucleus around which to rally. McClure was to swear in Brooks, and I believe that Captain Cutter (I am not certain about that) was to seize the State armory. So, on the 14th day of April, 1874, the revolution was inaugurated. Rice got the decision from Whytock, the armory was seized, Brooks was sworn in, but Hodges somehow failed to be on hand with his warrant—so Baxter was permitted to go. This I looked upon as a great oversight, and a few days afterward I insisted that Mr. Baxter should be taken, and offered to do it. I could have easily done so with a little dash and precipitation, but Mr. Brooks thought it not advisable to take the risk. He assured me he had absolute assurance from Washington that he would be recognized by the President, and that under the circumstances we could afford to wait.

The matter of calling the Legislature together was discussed in the Brooks camp,

but it was generally agreed that as we were looked upon as a revolutionary party, it would be wiser to wait until Brooks was recognized, but it was our full intention to have the Legislature called as soon as he was recognized; and had he been recognized, that programme would have been carried out.

As you know, Lee Thompson was appointed a General and was in command of the forces in the State-house grounds. I was Post Adjutant, and, of course, had a knowledge of everything that was going on in the Brooks camp, and for a considerable time on the outside, because I continued to board at Mr. Lange's, on Main street, and most of the boarders there were Baxter men. I was afterwards appointed by Gen. Fagan Quartermaster, with the rank of Colonel.

I will now go back to give a little account of Gen. Fagan's connection with this matter, as a great many unkind and unjust things have been said about him in connection therewith. Fagan was at nearly all the committee meetings we had, and was always earnest and positive in that part of the programme that the Legislature was to be called soon after Mr. Brooks' accession to the throne, and that we were to have a new Constitution and a new election. Gen. Fagan did not take up his quarters in the State House immediately after the inauguration of the revolution, because it was thought he could do more good and perhaps prevent bloodshed by remaining outside. Fagan was very much opposed to any actual hostilities, because he knew that the Brooks camp was well organized, well armed and ammunitioned, and that an attack by the Baxter men would have been an absolute failure and certain death to a good many of his friends. That the Baxter men misunderstood the situation in this respect was evident from the fact that the *Gazette* constantly asserted that Brooks did not have more than two or three

hundred half-armed, ragged negroes to support him. This was not at all true. He had several companies of the bravest and most desperate white men in the State, besides a regiment of negroes and an artillery command.

You will remember that breastworks were thrown up in the State-house yard. This was done at the instance of Gen. Fagan, and before he took command of the Brooks forces, because, he said: "The excitement at the Anthony House was so high that they were almost certain to make an assault on the State House unless something was done to prevent it." Gen. Catterson was in for a fight, and said: "Let them come; we can clean them out in fifteen minutes." But Fagan said: "No; they are my friends, and everything must be done that is possible to prevent a collision, and by letting them see that the Brooks camp is thoroughly prepared, is the best way to prevent it."

I have not the time to detail all this conference. It was sharp and angry, but Fagan carried his point. The breastworks were thrown up at the instance of Fagan, not for the protection of the Brooks men but for the protection of the Baxter men.

This is inside history. Fagan never would have taken command of the Brooks forces had the Baxter men let him alone, but he was so abused by them that he was forced to take an active part either on one side or the other, and considering his previous connection with the matter, his duty was plain.

It occurs to me that I have said all that is necessary to say.

A review of this matter is simply this:

We, Fagan, Thompson, Rice, Duffie and the other members of the committee were instructed to put Mr. Baxter out and put Mr. Brooks in, and, when the pear was ready to be squeezed, we made a contract with Mr.

Brooks that he was to be put in the gubernatorial chair on condition that we were to have a new Constitution and a new election. We did what the people had instructed us to do, and more. Mr. Brooks would certainly have carried out the programme had he been properly supported, but the men who instructed us to do this thing went back on us at the critical moment.

Your friend,

JOHN S. DUFFIE.

May 14th a company of White's cavalry made a reconnoissance into the southern part of the city, and returned about 1 P. M. Another company of the same command at 9:15 was scouring the hills west of the city, and were watched by Gen. Newton and the officers of the Baxter army, with field glasses, from the roof of the Adams block. At 1:20 a company of Baxter infantry marched up Scott street and united with the cavalry. A company of Baxter cavalry at the same time was scouting in Argenta, north of the river, and rode up to Baring Cross by way of the junction. The Baxter Parrott guns, at foot of Scott street, were wreathed with roses by young girls. The usual afternoon street skirmish was omitted, and all was quiet at midnight.

May 15th, about 9 A. M., the Brooks encampment was reinforced by detachments from Fort Smith, under Gen. Sarber, and from Dardanelle, under Col. Gibson. At 11 a. m. a squad of Baxter men ran a few Brooks men into

their camp, firing a number of shots. At 12:30 two Baxter men at Baring Cross amused themselves by firing rifle shots at the State House, which the Brooks men at the State House returned, At 2 P. M. Lieut. Noble, with a guard of Federal soldiers, crossed the river on the steamer Dardanelle, at the foot of Louisiana street and meeting five Baxter men, were told by the Baxter squad that they were sent to arrest the men who fired on the State House.

The great cheering and joyful demonstrations which pervaded the part of the city within the Baxter lines, about 5 P. M., was heard throughout the city and at the State House. It excited the most intense curiosity. It was kept up for hours, and caused the presumption that intelligence of some important kind had been received.

At 6 P. M. Gens. Poindexter Dunn and Ed. J. Brooks, with a flag of truce, carried a sealed communication to Governor Baxter's headquarters. The excitement at the Anthony House was so great and the cheering so vociferous that the Brooks Generals halted at the door and proposed to retire unless respected. Gen. Newton thereupon ordered Capt. Welch's company and a company of colored men on duty to preserve order. The Brooks messengers were assured that the demonstra-

tions were made by the citizens and not the soldiery. Gens. Churchill and Rottaken escorted the Brooks Generals out of their lines to the Federal barracks on the neutral grounds.

These demonstrations, after a month of excitement and terror to citizens and exertions and sacrifices of armed men on both sides, were caused by the first authoritative order looking to a suspension of hostilities. It had been anticipated by telegrams received during the afternoon and the day before. Mr. Garland threw away his dress-coat in the excitement.

At 3 P. M., on the 15th, on the reassembling of the Senate, in the Ditter block, after the roll was called, the Secretary read the following dispatch from the President of the United States:

DEPARTMENT OF JUSTICE, }  
May 15, 1874. }

*To J. G. Frierson, President pro tem., and  
James H. Berry, Speaker pro tem., Little  
Rock:*

The following proclamation is sent to you for publication.

GEORGE H. WILLIAMS,  
Attorney General.

BY THE PRESIDENT OF THE UNITED STATES OF  
AMERICA—A PROCLAMATION.

WHEREAS, Certain turbulent and disorderly persons pretending that Elisha Baxter, the present Executive of Arkansas, was not elected, have combined together with force and arms to resist his authority as such Executive and other authorities of said State; and,

WHEREAS, said Elisha Baxter has been declared duly elected by the General Assembly

of said State, as provided in the Constitution thereof, and has for a long period been exercising the functions of said office, into which he was inducted according to the Constitution and laws of said State and ought by its citizens to be considered as the lawful Executive thereof; and,

WHEREAS, It is provided in the Constitution of the United States that the United States shall protect every State in the Union on application of the Legislature, or of the Executive when the Legislature cannot be convened, against domestic violence; and,

WHEREAS, The said Elisha Baxter, under Section 4 of Article IV. of the Constitution of the United States and the laws passed in pursuance thereof, has heretofore made application to protect said State and the citizens thereof against domestic violence; and,

WHEREAS, The General Assembly of said State was convened in extra session on the 11th instant, pursuant to a call made by the said Elisha Baxter, and both houses thereof have passed a joint resolution also applying to me to protect the State against domestic violence; and,

WHEREAS, It is provided in the laws of the United States that in all cases of insurrection in any State, or of the obstruction to the laws thereof, it shall be lawful for the President of the United States, on application of the Legislature of said State, or of the Executive when the Legislature cannot be convened, to employ such part of the land and naval forces as shall be judged necessary for the purpose of suppressing such insurrection or causing the laws to be duly executed; and,

WHEREAS, It is required, whenever it may be necessary in the judgment of the President to use the military forces for the purpose aforesaid, he shall forthwith, by proclamation, command such insurgents to disperse and retire peaceably to their respective homes within a limited time;

Now, therefore, I, Ulysses S. Grant, President of the United States, do hereby make proclamation and command all turbulent and disorderly persons to disperse and return peaceably to their respective abodes within ten days from this date, and hereafter to submit themselves to the lawful authority of said Executive and the other constituted authorities of the State, and I invoke the aid and co-operation of all good citizens to uphold the law and preserve public peace.

In witness whereof, I have hereunto set my hand and caused the seal of the United States to be affixed. Done at the City of Washington, this fifteenth day of May, in the year of our Lord eighteen hundred and seventy-four and of the Independence of the United States the ninety-eighth.

U. S. GRANT.

By the President.

HAMILTON FISH,

Secretary of State.

Senator Brown moved that the Chaplain offer up a special prayer of thanksgiving at the next meeting of the Senate, in gratitude to God for this solution of the troubles, which was adopted.

May 18th, Monday, the *Republican*, in its first issue after the President's proclamation, in its leader, says, that the action of the President instead of being based upon the "hard rock of unquestioned law," was exercised solely upon the opinion of the Attorney General George H. Williams, of Oregon, which it "did not hesitate to declare is such an opinion as would disgrace any fifth-class lawyer now practicing at the Little Rock bar," and devotes a column and over to a review of the opinion.

Senators John M. Clayton, R. A. Dawson and Lovejoy, and C. E. Berry, Scott Thompson and Neal Brown (the last three colored) of the House, were conspicuous actors in the army of the "insurgents" who came under the authority of the President's proclamation. Upon offering to pass through the Baxter guards on Markham street, they were stopped and referred to Gen. Newton. Thereupon they addressed the following note :

LITTLE ROCK, May 16, 1874.

To Maj.-Gen. R. C. Newton :

The undersigned members of the Legislature this morning attempted to pass through your lines for the purpose of taking their seats in that body and were stopped by your guards and turned back. We desire to know if this was done by your orders.

JOHN M. CLAYTON,

R. A. DAWSON,

and others.

They also dispatched the fact to Senators Clayton and Dorsey.

Gen. Newton immediately sent back word that free passage was ordered to all members of the Legislature, and assigned Inspector General Rottaken to conduct them to the halls of the Legislature.

And then, May the 16th, the commanding officers met to arrange the cartel for the surrender of the Brooks forces. After the usual preliminaries, hospitalities were extended by the Baxter civic and military chiefs and accepted with the best grace by the Brooks

leaders, the following arrangement was agreed upon and signed by the respective general commanders:

[General Orders No. 10.]

HEADQUARTERS ARK. STATE MILITIA, }  
LITTLE ROCK, May 16, 1874. }

1. The following arrangements between the Major General commanding and Gen. Fagan, commanding the opposing forces, will be respected by the officers and soldiers of this command.

R. C. NEWTON,  
General Commanding.

LITTLE ROCK, May 16, 1874.

AGREEMENT by and between Maj.-Gen. Robert C. Newton, commanding Arkansas State forces, under Gov. Baxter, and Maj.-Gen. James F. Fagan, commanding forces under Hon. Joseph Brooks, arranging terms for the transportation to their homes of the forces on both sides, by which it is mutually agreed:

1. That in obedience to the proclamation of President U. S. Grant, of the 15th inst., the Brooks forces, under command of Maj.-Gen. J. F. Fagan, shall be dispersed as herein-after particularly agreed on, and

2. That the State forces under command of Maj.-Gen. R. C. Newton, to such extent and as rapidly as the disposing of Gen. Fagan's forces quietly to their homes will justify will be moved to their respective counties, and used in the military service for no other purpose than the preservation of the public peace, and the protection of all persons against violence, without regard to politics or color or any participation in the recent troubles in the State.

3. That all men and officers under command of Maj.-Gen. Fagan are to retain their private arms and their private property.

4. That the command of Brig.-Gen. Ed. J. Brooks, from Fort Smith and the upper Ark-

ansas River, shall be allowed to retain their private arms and twenty-four stands of State arms, the latter to be receipted for by Gen. Brooks, and delivered to him by an officer to be designated by Gen. Newton, the command to start to-day by Steamer Robert Semple, under a white flag.

5. That all the men of Brooks' forces living eastward, on the line of the Memphis & Little Rock Railroad, shall be sent by train; shall start to-night, or as soon thereafter as possible, under charge of their officers, the train to be under a white flag.

6. That all the Brooks forces from Pine Bluff or down the Arkansas River shall be sent by boat as soon as transportation can be furnished.

7. That the mounted men of the Brooks forces may be retained if desirable or necessary until the unmounted forces have dispersed.

8. That the members of the Brooks forces living in Pulaski County shall be sent to their homes by companies under discreet officers as rapidly as possible.

9. That all men of the Brooks forces included in this agreement, who have been acting as enlisted men, under command of their officers, are assured that full protection shall be given them, and that they will be permitted to return to their homes and vocations and shall not be molested for acts done under the orders of their officers, nor shall officers going to their homes with or without troops be molested.

10. That all public arms and munitions of war now in the hands of the Brooks forces, except those above mentioned as being allowed temporarily to Gen. E. J. Brooks, shall be deposited in the armory at the State House, unless Maj.-Gen. Newton shall allow other portions thereof to be used by either side pending the removal of the troops from the immediate scene of hostilities.



II. Transportation hereinbefore referred to shall be furnished by the State of Arkansas.

Signed in duplicate the date above mentioned.

R. C. NEWTON,  
Major General Commanding.  
J. F. FAGAN,  
Major General Commanding.

The Robert Semple left on the 16th of May with eighty-eight men of the Brooks army for Fort Smith and the upper river. The "Semple" floated a white flag.

The Brooks followers from the east left that night on trains under white flags. Within a day or two all Brooks' men had departed the capital. Gov. Baxter again took possession of the Executive office, escorted by the military. The Legislature vacated the Ditter block, and met in their usual places in the State House, as soon as they could be prepared for them.

And this was the end of the war. By it the people of Arkansas were relieved from the impositions of a cancerous oligarchy of amateurs in political economy, if they were not merely criminal wreckers and plunderers by design or instinct. The military organization of the State was kept up for a period until the bill which was passed by the Legislature calling a Constitutional Convention went into effect. There were no more military conflicts of any moment, only some slight clashings

of the civil with the military authority, and some police duty for the military. Many of the leaders of those who were "dispersed" by the President as "insurgents," went away. Others acquiesced, good humoredly, and remained, cheerfully resuming their peaceful occupations with as much or greater success than when engaging in Statecraft.

The Constitutional Convention was called, and with much learning and labor devised the Constitution under which we now live. Under it the Hon. A. H. Garland, who by his services and continued attention contributed so much to the happy consummation, was elected Governor, and Democrats, generally, to fill the important places in all the departments of the State government. He was then chosen Senator of the United States, and J. H. Berry, the Speaker of the House of the extra session which called the Constitutional Convention succeeded him as Governor.

The greatest military figure of the war was Gen. Robt. C. Newton. He was under 40 years of age, and a native of Little Rock. He had been educated at Bardstown, Ky. His father, Col. Thos. W. Newton, was a much beloved citizen of Little Rock—the only "whig" in politics ever elected to Congress from any Arkansas district. Gen. Newton was a lawyer—an able one—and had seen service during

the civil war as Adjutant General of Maj. Gen. T. C. Hindman, when that brave officer was in command of the entire Trans-Mississippi district. The State troops were subsequently by Governor Flanigan placed under command of Gen. Newton.

There was never in history an act of purer disinterestedness and patriotism than when Gen. Newton offered his services to Gov. Baxter. It was at once his indorsement, without compensation, promised or expected, and pledge for the faithful administration of the responsible office held under adverse circumstances by that gentleman.

Gen. Newton, by his knowledge of the people of the State and their needs, by his character for spotless integrity and sound judgment and courage, invited to Gov. Baxter's standard the support of many of the strongest and purest men in the State. By his vigilance and practical discernment, he selected the surest material for success in maintaining the Baxter government, and by his wisdom and temperate control, or guidance, he directed a most difficult and perilous movement to a glorious success.

He might have been the nominee of his party for the office of Governor, as the successor of Gov. Baxter, if he had not thought that gentleman entitled to succeed himself. Although Gov. Baxter declined the nomination, which the

Democratic party would have given him, Gen. Newton would not consent to be mentioned in that connection. He firmly refused the nomination by his party convention at Clarksville as a candidate for Representative in Congress of the Third District, which was tendered, but which he declined in favor of Gen. Wilshire, who, he said, had earned it by his splendid services in the Baxter cause, and being a Northern man and an ex-Union soldier, would be enabled when elected to render the party and the State still further benefits. Such was the magnanimous character and unselfish action of the hero of the Brooks and Baxter war. No man was ever better loved.

The Brooks leaders had the endorsement of the Democratic party originally; were sustained by the flower of the party, until their coalition with those who were regarded as only schemers for the plunder and enslavement of the people.

There were great abilities exerted and splendid work done by the leaders of the opposing factions of the Republican party in that conflict. Their division among themselves produced the usual result of such quarrels, which are the subject of illustrations in all times, of song and fable, by Æsop, La-fontaine, Boileau and Pope:

There take (said Justice), take ye each a *shell*.  
We thrive at *Westminster* on such fools as you.  
'Twas a fat oyster—live in *peace*—adieu.

## APPENDIX.

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### THE RESIGNATION OF COMMAND OF THE STATE FORCES BY GEN. R. C. NEWTON, AND APPOINTMENT BY GOV. BAXTER OF GEN. T. J. CHURCHILL IN HIS STEAD.

Before the Congressional Committee, July 28, 1874, Gen. Newton, in his usual lucid and frank manner, made the following statement of the cause of his resignation (Poland Report, p. 445).

By Mr. McClure: Q. What position did you hold in the State government prior to your appointment to civil office? A. Immediately preceding that I did not hold any position. A few days before that I had resigned my position as Major General of the Arkansas State militia.

Q. What led to that resignation? A. In the first place the war was over, and while I was disbanding the armies, two armies at once, and doing the best that I could not to cause any bloodshed, farther than had been shed, all the time assisted by and assisting Gen. Fagan in doing so; and while those troops were in that state in the midst of a town which had not been subject to the discipline of a camp; the Legislature of the State of Arkansas took upon itself to admit to their respective houses men who had been in open insurrection, as I considered it, against the legitimate government of the State, and (if there is anything in the term treason) who had been guilty of treason. I had learned once to know what that was, because I had tried it. And in the face of these armies those men were enabled, by the action of the Legislature, to walk right down through my lines and in the presence of the troops enter the legislative halls—some of them as Senators, and some as Representatives. My men complained of that. I was holding them in hand for purposes of peace, until not only the other side could get way, but until I could afford to send them away, too, and let the Legislature go into the State House and there sit as any other Legislature would do. But this was done in the presence of the troops. I issued an address to them, which on its face will show that it was principally for the purpose of discipline and maintaining peace among them. Without any knowledge on my part, Gov. Baxter, as I understand, sent a message to the Legislature on the subject. It turned out afterwards that he addressed it personally to the presiding officers of the respective houses of the General Assembly, disavowing any knowledge of my address before it was issued. As an order had been issued some time before that giving me control of military matters, I thought this action was interfering with my part of the government. So I wrote the Governor to that effect. He told me that he had disavowed any knowledge of my address, and that under the circumstances he could not sustain it, for the reason that he had, so far as the Legislature was concerned, removed his proclamation of martial law, and because that address was, in his opinion, a violation of his removal of martial law. As I did not approve that view, and as he ought to

have notified me before taking his action, I tendered my resignation, the war being over and there being no use in my staying any longer. \* \* \*

By Mr. Wilshire: Q. Look at what purports to be an address to the soldiers made by you, printed on page 22 of the published testimony before this committee? A. A copy of this pamphlet was given to me to-day, and I read this address in it. It is substantially the address as issued by me. I suppose it is taken from a newspaper publication. There are some mistakes in the newspaper publication, but the address is substantially the same.

GEN. NEWTON'S ADDRESS.

HEADQUARTERS ARKANSAS STATE GUARD, }  
LITTLE ROCK, May 19, 1874. }

SOLDIERS—You have been directly insulted by the two houses of the General Assembly, who have seen fit to reward your patriotism, your splendid discipline and valor by admitting to the halls of legislation those who, even before the dispersion of the insurgent forces, knocked for admittance, but who, the very day before thus applying to be recognized as Legislators, boasted through the public press of the glory of meeting you on the battle-field.

While such men, your enemies in arms, are thus allowed in your very presence a voice and vote in making laws to govern you who have so admirably deported yourselves when assembled for the vindication of legitimate government in our State; and when John M. Clayton, as a Senator, and Brig. Gen. L. L. Thompson, as a Representative, and lesser ones in position and influence, who have been known to be in arms against the Baxter government, are permitted to make laws governing the recognition of your services and the matter of your compensation, it is calculated, I know, to arouse indignation. I can but caution you to observe the same discipline and conduct yourselves in the soldierly manner as heretofore. Hoping that as time makes all things right, those to whom is committed the gathering of the fruits of your triumph will not through sentimentality throw away all the results of your victory.

R. C. NEWTON,  
Major General Commanding.

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On the 18th of May the Governor issued the following proclamation, revoking martial law:

EXECUTIVE OFFICE, STATE OF ARKANSAS, }  
LITTLE ROCK, May 18, 1874. }

WHEREAS, On the 16th day of April, 1874, martial law was by me proclaimed in Pulaski County, in consequence of the existence of an armed insurrection, under the authority vested in me as Governor by the Constitution and laws of the State, and on the 11th day of May, 1874, said proclamation was revoked in so far as not to interfere with the meeting and proceedings of the Legislature; and,

WHEREAS, The armed insurrectionists are now dispersing, and many persons are at large who are notoriously guilty of treason against the State of Arkansas, and it is not desirable to proceed against them by military law;

Now, therefore, I, Elisha Baxter, Governor of Arkansas, do hereby further revoke said proclamation of martial law, so far as to permit the arrest and detention, by criminal process from the civil magistrates, of all persons charged with treason against the State in the late insurrec-

tion ; but nothing in this proclamation shall interfere with the carrying out of any and all military orders from the headquarters of the State of Arkansas, or any legitimate military authority.

I testimony whereof, witness my hand and the seal of the State, etc.

ELISHA BAXTER, Governor.

Attested by J. M. JOHNSON, Secretary of State.

On the 19th instant Gov. Baxter took possession of the Executive office with appropriate ceremonies. He rode in a carriage with his private Secretary and other friends, under an escort of cavalry, infantry and artillery. He resumed his former chair to the firing of the sixty-four-pound gun called "Lady Baxter," stationed on the bank of the river, in rear of the Metropolitan Hotel. After which the two garlanded Parrott guns were fired 100 rounds, in the space east of the State House. The doors of the State House were then closed by Gen. Newton, and the keys turned over to Col. Rottaken, after the removal from their offices of Treasurer Page and Auditor Wheeler. Attorney General Vonley's resignation was tendered and accepted, and J. L. Witherspoon appointed in his stead.

House resolutions of the Legislature, charging Senators Clayton and Dorsey with conspiring to overthrow the State government, and in pursuance of such conspiracy did use their official positions to corrupt the judiciary of the State—to wit: M. L. Stephenson and others—and as unfit persons to represent the State in the Senate of the United States, and requesting them to resign, on the 23d of May were reported by Mr. Sumpter, of the Committee on Federal Relations, recommending their passage. On the 28th instant they were adopted—39 ayes, 4 noes. Noes—Chapline, Scott, L. L. Thompson and Williams.

The same body, on the 26th instant, had presented articles of impeachment against John McClure, Chief Justice; J. E. Bennett, E. J. Searle and M. L. Stephenson, Associate Justices; W. H. Gray, Commissioner of Immigration; George A. Kingston and John Whytock, Circuit Judges; W. S. Oliver and Benton Turner, Sheriffs of their respective counties, and sundry Clerks and Supervisors of counties, for treason, etc.

The repeated accusations against W. G. Whipple and John Whytock of procuring and rendering the "snap judgment" of the Pulaski Circuit Court in favor of Brooks for the office of Governor, against Baxter, as a usurper, was denied by them in the following newspaper card, published in the *Republican* of the 26th of May:

A CARD TO THE PUBLIC.

Our purpose in presenting this card to the public is to correct certain misrepresentations respecting the proceedings in the case of Brooks vs. Baxter, in the Circuit Court, which have been made and repeated in the *Gazette*, and the dispatches of one of its editors, as agent of the Associated Press, and re-echoed to some extent by the press of the country. To the following statement of the proceedings, as they occurred, we invite the perusal of the people, challenging the inventor or inventors of the false representations and their copyists to deny and disprove any portion of it.

The action was begun in June, 1873. The defendant, Baxter, appeared by counsel, Judge E. H. English and Messrs. Compton, Martin and Bishop, and filed demurrer in October, 1873, by which proceeding they raised the single question as to whether the Court had jurisdiction of the case. Brooks proceeded to take testimony by depositions, in the usual manner, upon due written notice served personally on Baxter in each case, which depositions have been returned, filed and belong to the papers in the case. These depositions show on their face a majority of several hundred votes for Brooks, over and above the majority upon which Baxter was (as is now admitted on all hands) counted in.

At the commencement of the last term of the Circuit Court the Clerk, as required by law, in setting the pending cases for trial, set this case for the 2d of March last. We understand and believe that it was subject to be called up and submitted upon any day between that time and its actual submission on the 13th of April, just one month and eleven days after it was set for trial.

On Monday, April 13th, and at a regular session of the Court, at which the usual business was for hearing and disposition (save only jury trials), the case was called up by Mr. Whipple, one of the plaintiff's attorneys, and submitted. The Court had previously announced that, as the United States Court was to sit during the week, no case requiring the empaneling of a jury would be called during the week, except by consent of both parties; but that in every other respect the business would progress as usual. We understand that, according to the rules and practice of the courts of the State, the plaintiff was entitled to submit the case just when we did. Moreover, there was an understanding between the attorneys of both sides that the demurrer might be submitted at any time.

The record of the submission was read in open court on the morning of Tuesday, the ensuing day. Each of the morning papers of Tuesday contained a notice of the submission under the usual head of proceedings of Courts. We are informed and believe that the attention of Gov. Baxter was called to the fact of this proceeding on Tuesday, in the Executive office, by J. N. Smithee, one of the editors of the *Gazette*.

We are informed and believe that the attention of Baxter's counsel was drawn to the same fact.

The decision of the Court was delivered on Wednesday, the 15th day of April. The decision was reserved during the whole session of about two hours, to enable some one at least of Baxter's counsel to attend and take steps in the case. Just before the close of the sitting, the Court, in ruling upon the other cases, reached the case of Brooks vs. Baxter, and announced that he supposed the case would be taken to the Supreme Court in any event; that it involved the question of salary, which had not been decided, and proceeded then in affirmance of his original decision made in the case of Berry vs. Wheeler, to sustain the jurisdiction of the Court by overruling the demurrer to the jurisdiction, at the same time announcing that the defendant could plead over, if he desired.

Upon this Mr. Whipple moved for final judgment, stating as grounds therefor, that the case was then subject to the call of the plaintiff, as it had been for more than a month; that it had been pending nearly a year; that the defendant had already had a reasonable time to determine whether to file a plea to the merits; that the defendant and his friends had never seemed to court inquiry and investigation into the result of the election, and suggested that the

defendant would, of course, appeal to the Supreme Court. At this point, Col. S. W. Williams, a well-known friend of Baxter, remarked to the Court, as *amicus curia*, that the defendant could not appeal until there was a final judgment rendered.

Besides, Judge Allen, of the law firm of Wilshire & Allen, who, as we are informed and believe, had been retained as attorneys for Baxter in the case, was present at this time and made no application for time to plead. In this State of the case, the Court announced that as an appeal would undoubtedly be taken, he would let judgment go with the privilege of a writ of supersedeas, if desired.

On the following day Judges English and Compton appeared in court and filed a motion to set aside the judgment. But neither of them offered to plead over, nor filed nor offered any defense to the action, nor made any showing of merits. The motion lay over one day, under the rules, and afterwards went by default, the defendant's attorneys positively refusing to prosecute it. And thus the proceedings were closed and perfected in the Circuit Court.

We again solicit the careful attention of the public to this statement, and challenge and defy contradiction of the material portions of it.

WM. G. WHIPPLE,  
M. W. BENJAMIN.

Little Rock, May 23, 1874.

So far as the foregoing statements relate to what occurred in the Circuit Court, they are correct.

JOHN WHYTOCK.

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#### COL. WILLIAMS ANSWERS COL. WHIPPLE.

Col. Sam W. Williams, an old and eminent member of the bar of the Supreme Court, and who was often appointed Special Judge of that Court, upon substantial repetition of this statement years afterwards, thus replied to it:

##### *To the Editor of the Gazette:*

I read in this morning's paper a most singular letter from Col. W. G. Whipple. Well, it disclosed, if nothing more, exceedingly bad memory in Whipple. It contained two false statements to one truth. Perhaps, in charity, I should attribute it to Whipple's old age and failure of memory from great lapse of time. It is true that Brooks was generally voted for by the Democrats in 1872, on a ticket with Democrats; it is true that all the ticket headed by Brooks was elected. But it is true, also, which Whipple does not state, that the party with which he is now identified counted Brooks and all Democrats on his ticket out, and dismissed his contest from the Legislature, the only tribunal having jurisdiction. It is also true, but Whipple does not state it, that after Baxter's inauguration, he administered the government honestly, and Clayton's crew fell out with him; therefore, Brooks had a proceeding instituted against Baxter for usurpation of office under a statute which applied to inferior officers, made his peace with Clayton, and a scheme was concocted to give it effect—that was done by the snap judgment and ouster of Baxter. It was supposed that Clayton, then in the Senate of the United States, could induce President Grant to recognize Brooks, who was a bitter Republican, and the disfranchising clause of the Constitution of 1868 would be enforced in all its rigors, notwithstanding the Democrats voted for Brooks on the pledge from him that the white people should be enfran-

chised. Had he gotten the office under election, instead of snap judgment, a Legislature of Democrats and Democratic State officers, in the main, would have gone in with him. But when he struck hands with Clayton and proposed to go in without the Democratic accompaniments, every well-informed Democrat in the State understood the situation; and as Minstrels (Claytonites) had made us take Baxter when he suited *them*, we proposed to hold him against revolution and rebellion when he suited *us*. Col. Whipple first says, untruly, that I was one of Baxter's counsel,\* and yet, further on, seems to forget what he had just written, and writes that I "injected myself" into the case, and that the judgment was by default. Why, such talk is the merest drivel. Col. Whipple knows that I delivered the opinion of the Supreme Court in the case afterwards, which quashed the whole thing for want of jurisdiction in the Circuit Court, and that I could not have been of counsel. I never was, in any form, Baxter's counsel in the case. The opinion is found on page 173, 29th Ark. He says there was a default, yet the counsel neglected the case; and yet says I, as one of the counsel of Baxter, was present and directed the Court how to render judgment by default against my own client. He does not say this in so many words, but that is the inevitable inference from his letter. He has a wonderful bad memory—if nothing worse ails him. I feel confident that he knew of this agreement, and I know Whytock did. Judge Whytock, the Clerk of the Court, and perhaps the Sheriff, and myself were absolutely all who were present. And yet Col. Whipple talks as though this snap judgment was taken in the presence of the whole bar. It was a fact that an agreement had been made the week before to the effect that the Court was to do nothing. Judge Whytock knew it, and I had every reason to believe that Whipple did, for this reason, to wit: The members of the bar, which Whipple calls partisan, drew up a statement of facts on the day (in the afternoon) that the snap judgment was taken, which set up the particulars of the agreement, and that Baxter should have had the right to answer over, which was denied by the snap judgment of that morning; and that the snap judgment was taken in violation of the agreement and the rules of practice. This was signed by E. H. English, A. H. Garland, U. M. Rose, Sol F. Clark, F. W. Compton and about thirty or forty others, and went into the Poland report to Congress afterwards. And during all that time, nearly a year, not a word or line did I ever see from Whipple denying its truth. And yet, after years of silence, when many of the actors are dead, Whipple proposes to push this protest aside with a waive like this: "The protest of a portion of the bar of Little Rock, signed during the excitement of the crisis by none but parusans, is of but little value to impartial history."

A thing that Whipple did not dare to deny then before the world and Poland's Committee is to be waived aside, and his denial, after the lapse of eighteen years of silence, is to be taken as impartial history, if we take Whipple's standard of judgment. But this much of it (notwithstanding his lapse of memory, conscience or something else) he admits—that he took judgment in the absence of Baxter's counsel, and without giving him time to appeal to the Supreme Court. He does not deny my statement that in less than an hour after the snap judgment a civil war was begun, which he must have foreseen.

What is the use of splitting hairs? Is there any reputable and fair-minded lawyer, unblinded by prejudice and partisan rage, who would have done such a thing as Whipple admits he did, even where the value of a hog was involved, much less the peace and good order of the people of the State of Arkansas? It was not "a judgment by default," for Baxter had inter-

\*This, the *Gazette* explains, was from the compositor dropping the word "not," in Whipple's card.



posed a demurrer, which Whytock had overruled, and on that morning Whipple stated that it was his understanding that Baxter's counsel intended to rest on the demurrer and appeal to the Supreme Court. I was innocent enough to suppose that everything would proceed in decency and order. \* \* \*

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On the 26th of May the Judiciary Committee of the House reported a substitute for a general amnesty bill, granting:

SECTION 1. A free and full pardon to all non-commissioned officers and privates duly enlisted in the armed forces of Joseph Brooks, for all acts done or committed against the criminal laws of the State, under orders of their superior officers.

SEC. 2. Excepted Brooks and persons holding any legislative, executive or judicial office, who aided in his insurrection.

An amendment to include Joseph Brooks in the general amnesty was adopted, and the bill passed by a vote of 59 ayes, 4 noes. The Senate concurred.

May 27th, the House of Representatives, in Congress, passed a resolution by a vote of 129 to 84 to appoint a committee of five to investigate affairs in Arkansas, of which Hon. Luke E. Poland was chairman.

The Legislature having passed resolutions of thanks to the officers and soldiers who had sustained Gov. Baxter, and called a State Constitutional Convention, stood adjourned, in accordance with previous resolution, until December 7, 1874.

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#### ARKANSAS AFFAIRS.

HOUSE OF REPRESENTATIVES, 43D CONGRESS, 2D SESSION, { Report  
February 19, 1875. } No. 249.

Recommitted to Select Committee on Arkansas Affairs and ordered to be printed.

Mr. Poland, from the Select Committee, recommended to the House the following resolution:

*Resolved*, That the report of the Select Committee on the condition of affairs in the State of Arkansas be accepted. And in the judgment of this House no interference with the existing government in that State [under the Constitution of 1874, A. H. Garland being then Governor] by any department of the United States is advisable. The resolution was adopted.

The House Committee on Elections, of the same Congress, Report No. 264, part 2, reported:

*Resolved*, That Lucian C. Gause is not entitled to a seat as Representative in the Forty-third Congress, from the First Congressional District in the State of Arkansas.

*Resolved*, That Asa Hodges is entitled to a seat as Representative in the Forty-third Congress from the First Congressional District in the State of Arkansas.

The same committee reported in favor of Snyder against Bell, Report No. 11; and in favor of Gunter against Wilshire, Report No. 260.

Ex-Judge John McClure created a sensation in his party in 1888, by favoring the exclusion of negroes from the Lincoln Club, of the City of Little Rock. In a letter to the *Pine Bluff Commercial*, January, 1889, he explains his position on that subject by the following logical (and humorous) and able argument:

In the Lincoln Club address, I said: "My interest in the breaking of the 'solid South,' and the success of the Republican party is greater than my love for the negro or any other race. I want to see the party prosper. I want to see the negro have all the rights the law gives him, but I am not disposed to cling to him at the expense of party success." I take this opportunity to repeat what I then said. I do this not because I have any prejudice against the negro; not because I do not feel friendly toward him; not because I contemplate joining hands with the Democracy in the crusade they make against him, but because his conduct in the past has, as I conscientiously believe, prevented a disintegration of the white vote. If I believed, which I do not, that the Republican party could be restored to power in this State by yielding control of it to the negro, it is possible that he might furnish as good an administration as has the Democratic party, but I demand something better. He might equal the defalcations of Democratic Treasurers; he might equal the Democracy in stuffing and stealing ballot boxes; he might equal Gov. Hughes and his militia; he might let crime run riot throughout the State; he might allow the white men to be run out of the negro counties in the State and prevent their return, but I am not anxious for that species of government, nor am I in favor of the repeal of the fourteenth and fifteenth amendments to the Constitution of the United States. I am in favor of their enforcement.

#### APPLICATION OF AMENDMENTS.

The negro may well be accorded all the rights and privileges granted by the fourteenth and fifteenth amendments without the fear of "negro domination." The fault lies with the States, as well as the remedy. The fear of "negro domination" grows out of the fact that the negro may hold office, but this right does not grow out of anything contained in the Constitution of the United States.

In the case of *Cruikshanks vs. United States*, 92 U. S. 542, it is said: "Under the fourteenth amendment each State had the power to refuse the right of voting at its elections to any class of persons; the consequence being a reduction of its representation in Congress in the proportion which such excluded class should bear to the whole number of its male citizens over the age of twenty-one years. This was understood to mean and did mean that if one of the late slave-holding States should desire to exclude its colored population from the right of voting at the expense of reducing its representation in Congress it could do so."

In the case of *United States vs. Reese*, 92 U. S. 214, the Supreme Court of the United States said: "The fifteenth amendment does not confer the right of suffrage upon any one. It prevents the States of the United States from giving preferences in this particular to one citizen of the United States over another on account of race, color or previous condition of servitude."

The first section of the fourteenth amendment declares that: "All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside."

Citizenship does not confer the privilege of voting. The Constitution does not say you

shall not disfranchise a negro, but it prevents his disfranchisement on account of race, color or previous condition of servitude. You may disfranchise him if he does not have property of a certain value. You may disfranchise him if he is not a believer in the Protestant religion. You may disfranchise him if he was born in France, Italy, England or any foreign country. You may disfranchise him because he cannot read Greek and Hebrew; but if you disfranchise him for any of these reasons, you must at the same time disfranchise the white men who fall within the same provisions.

A woman is a citizen of the United States, yet she cannot vote. A male foreigner, twenty-one years of age, who has declared his intention to become a citizen of the United States, but who has not, and may never take out his final papers, who shall have resided in the State for one year, the county six months and the township one month before an election, has a right to vote, yet he is not a citizen of the United States.

#### THE QUESTION IN CONGRESS.

Nor does citizenship or the right to vote carry with it the right to hold office, by reason of anything contained in the Constitution of the United States. The question whether the States should be inhibited from denying to persons the right to hold office "on account of race, color or previous condition of servitude," was before Congress, and it refused to take it away from the States. That power belongs to the States to-day. There may be some provision in the Constitution or laws of the State giving them the right to hold office, but there is nothing in the Constitution of the United States which inhibits the State from doing it. If there is a desire to do it, the State can do it. If the Democratic party of the South shall deem it prudent to do so, it can deprive the negro from holding office without antagonizing the Constitution of the United States. It can settle the "race problem" and get rid of the fear of "negro domination," if it wants to. The question is not one of power, but one of policy.

I have said the question was not one of power, but one of policy, and for the purpose of showing this, let me call your attention to the history of the enactment of the fifteenth amendment. On the 11th of January, 1869, the House Committee reported a proposed amendment, to be known as No. 15, to that body for adoption. On the 15th of the same month a Senate Committee introduced another. I place them in parallel columns so you can see at a glance the difference between them:

#### HOUSE.

The right of any citizen to vote shall not be denied or abridged by the United States, or any State, by reason of race, color, or previous condition of slavery of any citizen, or class of citizens, of the United States.

#### SENATE.

The right of citizens of the United States to vote *and hold office* shall not be denied or abridged by the United States, or any State, on account of race, color or previous condition of servitude.

Right at the threshold you will see that the respective houses started out with different propositions—the House proposition only inhibiting the States from denying the *right to vote*, while the Senate proposition wanted to inhibit them from denying not only the right to vote but the *right to hold office*.

The House proposition was passed on the 30th of January, 1869, and sent to the Senate on the 3d of February, 1869. The Senate amended the House proposition by striking out the whole of it and inserting in lieu thereof the Senate proposition. This action on the part of the Senate indicates that the Senate desired to protect the negro in the right to hold office.

On the 17th of February, 1869, the Senate passed its own proposition and sent it to the House. Mr. Logan moved to amend the Senate proposition by striking out the words "and hold office." This amendment was rejected. Mr. Bingham, of Ohio, moved to amend it by inserting after the word "color" the words "nativity, property, creed."

These amendments were adopted, and as thus amended the Senate proposition passed the House. As then amended and passed by the House it read as follows: "The right of citizens of the United States to vote *and hold office* shall not be denied or abridged on account of race, color, nativity, property, creed or previous condition of servitude."

The Senate refused to concur with the House amendments, and a committee of conference was appointed by both houses. The House appointed Boutwell, Bingham and Logan, and the Senate appointed Conkling, Edmunds and Stewart. Five of the committee signed the following report: "That the House recede from their amendments and agree to the resolution of the Senate, with an amendment as follows—strike out the words 'and hold office,' and that the Senate agree to the same." Both houses adopted the report of the Conference Committee, and passed the proposed amendment, and as passed it read as follows: "The rights of citizens of the United States *to vote* shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude."

#### VOTING AND OFFICE-HOLDING.

From the amendments proposed, it appears that both houses of Congress were of opinion that the right to vote did not carry with it the right to hold office. Now, it appears that the House did not desire to place any limitations upon the States which would deprive them of the right and power of determining what class or character of persons should hold office. It equally appears that the Senate, from the beginning, wanted to secure both the right to vote and hold office to the negro. Another thing appears, from the rejection of the Bingham amendment to the Senate proposition, and that is that the States should continue to possess the right to exclude persons from the right to vote upon the ground of "nativity, property or creed." Under the House amendment of the Senate proposition the States were free to prescribe an educational qualification, but were inhibited from withholding the right to vote or hold office on account of "nativity, property or creed." In some of the States a property qualification was required, in others nativity was a ground of disqualification, and in others the elector must be of the Protestant faith. Bingham's amendment reached this class, but it was stricken out by the Conference Committee, so that now the only persons affected or protected by the Fifteenth Amendment are *negroes and persons of African blood*.

We are now confronted with this proposition: First, the proposed amendment to the Constitution, as originally introduced and passed by each House, related to negroes, and negroes alone. Second, as amended in the House, an attempt was made to make it extend to and protect a class of white men who were denied the right to vote because of their nativity, property or creed. This class were mostly found in the New England States and the State of New York. This was the question presented to the Conference Committee. If the Senate agreed to the House amendments, then the negroes and the white class of whom I have spoken were entitled to vote and hold office, if the States adopted the amendment.

#### OPPOSING OFFICE-HOLDING.

That Logan was opposed to the negro holding office in the condition he then was is evidenced by his motion to strike out the words "and hold office" from the Senate proposition,

for this was done before Bingham offered his amendment. An examination of the record shows that Bingham voted for the Logan amendment. Thus it appears that two members of the House Conference Committee were opposed to giving the negro the right to hold office in his then condition. Boutwell, the other member of the House Committee, voted against the Bingham amendment. When the Conference Committee met, the differences which the House members had to settle between themselves was the striking out the words "and hold office" and "nativity, property, creed." They agreed, Boutwell agreeing to strike out the words "and hold office" if Logan and Bingham would strike out "nativity, property, creed." In this Stewart of Nevada and Conkling of New York, of the Senate Committee, agreed, but Edmunds of Vermont would not sign the report of the committee.

Something had to be done for the protection of the negro, as there remained but three or four days of the session. With the ballot he had a voice in who should make the laws and who should execute them, even if he did not have the right to choose one of his own race to perform those functions. This is a power before which all politicians bow. The Senate, rather than allow the session to expire, yielded the right to hold office and passed the proposed amendment. It cared nothing about the Bingham amendment, because it had voted down an amendment of that character before its proposition was sent to the House.

#### SENATORIAL OPINION.

In opposing the report of the Conference Committee, Mr. Edmunds said: "You are saying to him (the negro), 'You have the rights of manhood, you have the rights of equality, but you shall exercise these rights in choosing some one of us to rule over you instead of some one of your fellow-citizens whom you prefer.' I suppose some vague fear fills the mind of some trembling convert to liberty that this people will not be satisfied to give the negro the right to run against themselves for some office, but are willing to confer on him the boon of voting for them." This language would not have been used if Senator Edmunds had thought the right to vote had carried with it the right to hold office. He would not have used it if he thought the language of the fifteenth amendment or any other constitutional provision inhibited the States from denying the negro the right to hold office "on account of race, color or previous condition of servitude."

Senator Wilson, of Massachusetts, said: "Do not tell me, sir, that the right to vote carries with it the right to hold office. It does no such thing. No man in the world has a right to hold an office. The people have a right to vote, and they have a right to put terms and conditions to the offices they make. I believe, however, that if the black men have the right to vote, they and their friends, in the struggle of the future, will achieve the rest. Therefore, I am willing now to give them the right to vote, if I cannot get for them the right to be voted for."

Senator Morton said: "We are liable to this charge, which will now be made, and the force of which we can hardly avoid—that we are willing the negro shall vote, provided they vote for white men, but the offices must be reserved for white men."

Senator Stewart, who was a member of the Senate Conference Committee, said: "I have labored to have the right to hold office inserted in the amendment, because I was willing to do the whole right, but that was impossible, and now I want to secure to all men the right to protect themselves by the ballot. It will place in the hands of the black man a rod of power before which all politicians quail."

Senator Morrill, of Vermont, said: "I would much prefer some different amendment from this, and yet I am not prepared to say that this does not go as far as would be acceptable to a majority of the people."

The last person who addressed the Senate before the report of the Conference Committee was adopted was Fowler, of Tennessee, who said: "I suppose this report will be concurred in. I simply wish to say, before the vote is taken, that my understanding of the proposition as it now stands is that it decides by an amendment to the Constitution that the Constitution does not guarantee to all citizens of the United States the right to hold office."

I have gone into this matter at some length, but with one purpose in view, and that was to ascertain whether Congress by the Fifteenth Amendment intended to inhibit the States from denying to persons the right to hold office "on account of race, color or previous condition of servitude." If it has not, then the way is open to get rid of what the South calls the "race problem."

There is little or no objection to the negro *voting*. Fault is found not from the fact that he can use the ballot, but the *manner* in which he uses it.

#### THE SOLUTION.

Take from him the power to elevate the ignorant and vicious of his race, and the fear of *negro domination* disappears. Take from him that power, and you have furnished him an incentive to select between men who are candidates for office, and in which he will not be controlled by race sympathy. Under such surroundings *negro domination* and the fear of it will be a thing of the past. He would then become a powerful factor, and one which the whites would seek, and which they cannot now seek and will not seek, because of the existence of this fear. The white vote will divide itself under such surroundings, and he who can convince the negro he is his best friend will get his support. He will thus create allies among those who are now opposed to him, who will have more influence for his protection than one of his own race. Under such conditions men would champion his cause, not because they love him, but to further their political ambition. Under such conditions, the people who are now indifferent as to whether his vote is counted or not would have an interest in seeing it was counted. Under such conditions they would have a voice in choosing the men who make and administer the laws, whereas they now have no such voice. Under such conditions the voice of their representative could be heard in the halls of Congress, whereas it is not now heard.

I am aware of the fact that this sounds like a cold-blooded proposition, but, in my opinion, it would bring peace. I am not saying it is proper or that it is just. I am dealing with a condition and not a theory. I am not responsible for the fact that the great bulk of the white people of the South are in one party. It is a misfortune that they are, and I am only speaking of a method which might remedy the evil. I am treating of two evils which exist, and one of which the Democratic party is responsible for. If it would forget the loss of the "Lost Cause;" if it would present any other issue to the country than the negro; if it would turn the attention of the members of its party to Statecraft and developing a higher civilization; if it would abandon that policy which existed in China when the Chinese wall was built; if it would make a fight for progress; if it would do anything but live upon the memories of the dead past, I think the race problem would adjust itself; but it will not. The "race problem" is the only thing now which furnishes that party with cohesion. The cohesion

of public plunder is as nothing in comparison to it. Hence, the "race problem" will continue until it is settled. The negro is not strong enough to settle it in his own favor; the white men of the Democratic party are. Will they do it?

By allowing the negro the ballot you retain representation for him; by prohibiting him from holding office you get rid of the fear of "negro domination" and settle a perplexing question. You establish that for which the Democratic party contends, this country should be controlled by the "Caucasian race." You have either to give up representation in the electoral college and Congress based upon inhabitants, or concede to the negro the ballot, and protect him in its exercise. The Democratic party must elect which of the two propositions it will accept. As I am not of counsel for that party, I have no advice to give it.

For years the people of this country have been trying to discover a passage to the North Pole. For years the people of this country have been attempting to solve a "race problem." The Arctic explorers have been looking for a "Northwest passage;" the whole people of the South have been looking for something of that kind. I do not say I have discovered it, or that it will lead to a settlement of the controversy. It is an untried proposition. It may lead to a settlement if the mariners of the Democratic party will, while cruising around the headwaters of Salt River, see if the route is practicable. I am, sir, respectfully, etc.,

JOHN McCLURE.

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[Negro domination could be just as well established through agencies of white men, if not better, than through incompetent blacks.]

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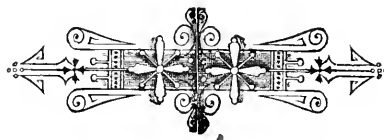
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